UNIV. OF
TORONTO
LIBRARY

P
Univ.
W.

22146

BULLETIN

OF THE

UNIVERSITY OF WISCONSIN

ECONOMICS AND POLITICAL SCIENCE SERIES

VOLUME III

1908

PUBLISHED BY AUTHORITY OF LAW AND WITH THE APPROVAL OF
THE REGENTS OF THE UNIVERSITY

108492
6 3 11

MADISON, WISCONSIN
1908

BULLETIN OF THE UNIVERSITY OF WISCONSIN

COMMITTEE OF PUBLICATION

WALTER M. SMITH, *Chairman*
WILLARD G. BLEYER, *Secretary*
FREDERICK W. MACKENZIE, *Editor*

THOMAS S. ADAMS, *Economics and Political Science Series*
WILLIAM H. LIGHTY, *University Extension Series*
WILLIAM S. MARSHALL, *Science Series*
DANIEL W. MEAD, *Engineering Series*
EDWARD T. OWEN, *Philology and Literature Series*
FREDERICK J. TURNER, *History Series*

CONTENTS

		PAGE
No. 1.	The labor history of the Cripple Creek District, by Benjamin McKie Rastall.....	1
No. 2.	A congressional history of railways in the United States to 1850, by Lewis Henry Haney.....	167


Digitized by the Internet Archive
in 2008 with funding from
Microsoft Corporation

http://www.archive.org/details/bulletineconomic03wiscuoft

BULLETIN OF THE UNIVERSITY OF WISCONSIN
NO. 198

ECONOMICS AND POLITICAL SCIENCE SERIES, VOL. 3, NO. 1, PP. 1-188

THE LABOR HISTORY OF THE CRIPPLE CREEK DISTRICT

A STUDY IN INDUSTRIAL EVOLUTION

BY

BENJAMIN McKIE RASTALL

Economic Expert, New York State Department of Labor

A THESIS SUBMITTED FOR THE DEGREE OF DOCTOR OF PHILOSOPHY
UNIVERSITY OF WISCONSIN
1906

Published bi-monthly by authority of law with the approval of the Regents of the University and entered at the post office at Madison as second-class matter

MADISON, WISCONSIN
FEBRUARY, 1908

CONTENTS

PART I—THE STRIKE OF 1894

CHAPTER I—PRELIMINARY CONSIDERATIONS

INTRODUCTION

Cripple Creek—Location, geology, settlement—General economic conditions in 1894—Conditions in Colorado and Cripple Creek in 1894 15

INDIRECT CAUSES OF THE STRIKE

Uncertain business conditions—Irregularities in employment of labor 19

EVENTS LEADING UP TO THE STRIKE

The policy of H. E. Locke—Trouble at the Isabella—Formation of unions—The development of storm centers—The action of the mine owners—Deportation of Manager Locke—Resolutions of the unions—General conditions favorable to the mine owners—The surprising outcome, and the key to its explanation 20

CHAPTER II—THE TWO CRISES

THE FIRST CRISIS

Attempts at a compromise—The lockout Feb. 1st, 1894—The strike Feb. 7th—John Calderwood—Preparation by the unions—The injunction of March 14th—Capture of the deputies—Sheriff Bowers calls for militia—Beginning of friction between state and county—Conference between the generals and union officers—Recall of the militia—Compromise at the Independence 24

THE SECOND CRISIS

Coming of the rough element—The coup of Wm. Rabedeau—The demands and terms of the owners—Formation of the deputy army—"General" Johnson—Preparation of the miners for resistance—First detachment of deputy army—The blowing up of the Strong mine—The miners attack the deputies—Excitement in Colorado Springs—Rapid increase of deputy army—The governor's proclamation 30

CHAPTER III—THE FORCING OF THE ISSUE

ATTEMPTS AT ARBITRATION

Conservative movement in Colorado Springs—The non-partisan committee—The miners propose terms of peace—Failure of the arbitration committee plan—Exchange of prisoners—The mission of Governor Waite—Miners give governor full power to act—The conference at Colorado College—Attempt to lynch Calderwood—The final conference in Denver—Articles of agreement 37

MILITIA VS. DEPUTIES

The deputies march on Bull Hill—Call of the state militia—The question of authority—The clash in Grassey Valley—Military finally in control—Movements of the deputies—Conference in Altman—Withdrawal of deputies 45

THE RESTORATION OF ORDER

Turbulent conditions in Cripple Creek—Attempts upon life of sheriff—Plan for vengeance in Colorado Springs—The attack upon General Tarsney—Arrests and trials of the strikers... 50

CHAPTER IV—DISCUSSIONS

PECULIARITIES OF THE STRIKE

The union allows men to work—Exchange of prisoners—Unusual influence of state authority 52

ARGUMENTS OF THE VARIOUS PARTIES

The position of the mine owners—The position of the miners—The position of the governor 53

THE BALEFUL INFLUENCE OF POLITICS 57

PART II—THE STRIKE OF 1903—1904

CHAPTER I—THE INTERVENING PERIOD

General Development
Increase in population and wealth—Industrial advance—Removal of frontier conditions—Entire dependence upon mining—The working force..... 61

The Background for the Strike
Divisioning of El Paso county—Growth of unions in political power—Western Federation becomes socialistic..... 65

The Situation Immediately Preceding the Strike
Unions misuse power—Treatment of non-union men—Minority rule—The strike power delegated..... 70

CHAPTER II—THE COLORADO CITY STRIKE

The Colorado City Strike
Formation of union—Opposition of Manager MacNeill—Presentation of grievances—The strike deputies and strikers—Manager MacNeill secures call of state militia..... 73

Partial Settlement by Arbitration
The Cripple Creek mines requested to cease shipments to Colorado City—The governor visits Colorado City—Conference at Denver—Settlement with Portland and Telluride Mills—Failure of second conference with Manager MacNeill 78

The Temporary Strike at Cripple Creek
Ore to be shut off from Standard Mill—The strike called—Advisory board—Its sessions—Further conferences—Settlement by verbal agreement..... 81

CHAPTER III—THE CRIPPLE CREEK STRIKE

The Call of the Strike
Dispute over Colorado City agreement—Appeal of the union—Statements submitted by both sides—Decision of advisory board—Second strike at Colorado City—Strike at Cripple Creek..... 85

HE FIRST PERIOD OF THE STRIKE

Events of the first three weeks--Disorderly acts on September 1st--Release of Minster--Mine owners demand troops..... 90

THE MILITIA IN THE DISTRICT

The governor holds conferences with mine owners--The special commission--Troops called out—Militia arrest union officers --Other arrests—General partisan activity of the troops... 93

CIVIL VS. MILITARY AUTHORITY

Habeas corpus proceedings--Militia guard court house—Judge Seeds' decision—The militia defy the court--Prisoners released--Rapid opening of the mines--Strike breakers..... 100

CHAPTER IV—TELLER COUNTY UNDER MILITARY RULE

ATTEMPTED TRAIN WRECKING AND VINDICATOR EXPLOSION

Attempts to wreck F. & C. C. R. R. trains--McKinney and Foster arrested—McKinney makes conflicting confessions—Trial of Davis, Parker, and Foster—Digest of evidence—Release of McKinney—The Vindicator explosion—Evidence in case 104

A STATE OF INSURRECTION AND REBELLION

The governor's proclamation—The power conferred as interpreted by militia officers—Local police deposed--Censorship of Victor *Record*—Registering of arms—Idle men declared vagrants—More general arrests of union officers—Habeas corpus suspended in case Victor Poole—Rowdyism by certain militiamen--Mine owners' statement--Federation flag posters —Withdrawal of troops..... 108

CHAPTER V—THE FINAL CRISIS

THE SIXTH DAY OF JUNE

Independence station explosion—Wrath of the community—Sheriff forced to resign—Bodies taken from undertaker—Mass meeting at Victor--The Victor riot—Militia capture miners' union hall—Wholesale arrests of union men—Riot in Cripple Creek—Meeting of Mine Owners' Association and Citizens Alliance—The federation to be broken up..... 119

The Annihilation of the Unions
Teller County again under military rule—Plant of Victor *Record* wrecked—Forced resignation of large number of county and municipal officials—The military commission—Deportations—Militia close the Portland mine—Aid to families forbidden—District entirely non-union—Withdrawal of troops..... 126

The Period Immediately Following
Mob deportations—The Interstate Mercantile Company—Second wrecking of the stores—The November elections—The expense of the strike—Summary..... 134

CHAPTER VI—DISCUSSION AND CONCLUSION

The Western Federation of Miners. Its Side of the Case
History of the federation—Its socialistic tendencies—Sympathetic statement of its position..... 139

The Mine Owners' Association. Its Side of the Case
History of the organization—The card system—Sympathetic view of its position..... 141

The Citizens Alliances. Their Side of the Case
History of the alliances—Sympathetic view of their position..... 144

The State Authorities
Statement by Governor Peabody..... 147

The Responsibility and Blame—The Western Federation of Miners
Cause of strike—Crimes of the strike..... 149

Mine Owners' Association
Criminal guards—Mob violence..... 152

The State Authorities
Use of troops—Perversion of authority..... 155

Arraignment of Each Side by the Other
The "Red Book"—The "Green Book."..... 158

Comparison of the Two Strikes
The first natural, the second artificial—Frontier conditions *vs.* complete industrial development—Contrasts in the use of state authority—Civil and military authority—Politics—Minority rule..... 160

Significance of the Labor History..... 162

Bibliography..... 163

PREFACE

The Labor History of Cripple Creek is the result of investigations carried out upon the ground, and covering a period of several years. The material for the narrative of the strike of 1894 was secured in 1902 and early in 1903, shortly before the opening of the second strike. This was fortunate in that, a considerable period having elapsed and the most friendly conditions prevailing, the second strike being no more than a faint suggestion upon the horizon, the men concerned could be induced to speak more frankly and with less conscious partisanship than would have been possible at any other time. It also gave the author knowledge of the exact situation and conditions under which the second strike had its formation, and enabled him to follow the course of events with more accuracy than would have been possible under any other circumstances.

During the strike of 1903–04 the author was a resident of Colorado, part of the time of Colorado Springs, and the summer season of 1905 was spent in Teller County, largely in completing the investigations for this monograph. The most important material for the work has been gained through interviews, over 300 in number, with men in a position to have an intimate knowledge of various phases of the difficulties. Information has been sought from most of the union officers and many prominent union men; from nearly all the county and state officers in any way directly concerned; and from many others who from close personal experience could speak with authority of various incidents of the strike. It was originally intended to publish a list of the interviews with the bibliography, and to make free use of them in footnotes showing authority. Owing, however, to the recentness and intensity of the last strike, the resulting tension is in some cases strong. It

has seemed wise to preclude the possibility of embarrassment or injury resulting from the very frankness and courtesy which has made the accuracy of the study possible, and for that reason names are withheld. It should be understood that frequently where only documentary evidence is cited, and always where no authority is given, reliable testimony has come from authentic personal sources.

The manuscript of the narrative part of the work (Part II, Chap. VI, and all footnotes, excepted) has been submitted to residents of Colorado selected so as to include both political parties, both county and state authorities, and both those whose general sympathies were with the mine owners and those who sympathized with the unions. They were those who seemed to the author to combine the largest actual knowledge of the disturbances with the most conservative and unbiased judgment. Their criticism and suggestion has proved of very great value. The same reasons as given above prompt the withholding of the names.

To Professor Thomas K. Urdahl of Colorado College, at whose suggestion the work was originally undertaken, and whose advice and suggestion have been of the greatest value throughout, the author is deeply indebted.

The history of the Cripple Creek District is one of rapid and spectacular growth. The sudden rise of a complete social fabric in a mountain wilderness, and the transformation of a barren area to a center producing $2,000,000 a month, form the background of an equally rapid industrial development which finds its chief exponent in the mining labor movements. The district forms a small but distinct physiographical and political area. Within this area the stages of a complete industrial evolution have been passed through in a little more than a decade. Starting with primitive, frontier labor conditions, there was a rapid succession of stages ending in extreme capitalization and extraordinary organization. Gathering the strength of forces shut in unto themselves, and keeping pace with the other rapid developments, the labor-capital issues finally broke forth in a conflict worthy the name revolution. The very momentum of the movement carried it through the entire known gamut and on

beyond the experiences of its time, and with almost the entire section arrayed on one side or the other, and to the accompaniment of boundless political turmoil, it fought itself out to the finish. A working model is ever of great importance, and this intense miniature of great present day forces and issues has a content of valuable suggestion.

PART I

THE STRIKE OF 1894

THE LABOR HISTORY OF THE CRIPPLE CREEK DISTRICT

CHAPTER I

PRELIMINARY CONSIDERATIONS

Introduction

The Cripple Creek District lies in the first range of the Rocky Mountains, about 25 miles west of Colorado Springs, and 85 miles southwest of Denver. It has an altitude of from 9,000 to 12,000 feet, none of the mines being at an elevation of less than 9,000, and some being over 11,000 feet above sea level. Geologically, the region is of volcanic origin. Great flows of lava have issued from a formerly existent volcano in the heart of the district. When these hardened they were subjected to severe stresses in the earth's crust and broken by countless fissures in parallel systems. Later, hot percolating waters from deep-seated sources in the earth came to the surface, bearing in solution gold telluride, with quartz. These were deposited as the valuable ores in the fissure veins of the district.

Rough, gaunt and broken, dry and almost arid, cut into barren rocky ridges and valleys where scraggly dwarfed trees eke out a bare existence, and naught can flourish save the hardy mountain grasses and wild flowers;—it is not a place to invite human habitation, nor to support it under ordinary conditions. The only sign of occupancy in 1890 was the Womack cattle ranch occupying the present site of the city of Cripple Creek.

In 1893, less than three years later, the city of Cripple Creek numbered about 5,000 people, and close at hand were Victor,

Anaconda, Altman, and numerous smaller towns. Three wagon roads led into the district, from Divide on the north, from Colorado Springs on the east, and from Canon City on the south. Along these roads night and day passed heavy trucks drawn by six and eight horses, bringing into camp provisions and building material and mining machinery, or leaving with loads of ore for the smelters. Heavy passenger coaches came in every night to swell the number of fortune seekers. On the north, the Colorado Midland Railway was running a branch road in from Divide, and the Florence and Cripple Creek Railway was pushing even harder to get into camp from the south.

The reason for this rapid change was gold. Robert Womack had in 1890 sunk prospect holes and secured ore that assayed high in gold.[1] News of his success had spread quickly, and soon prospectors poured in from all directions. More than 40 mines were in process of active development by 1893 and prospect holes were being sunk in every direction.[2] Nearly $3,000,000 worth of ore had been shipped from the mines already, and every week new veins of rich promise were being opened.[3]

The social conditions of the region were those usual in an unsettled mining community. Life at the camp was generally rough. Men were many and women few. Saloons and dance halls were numerous. The roads were poor and the city streets even worse. Dumps from the mines often crossed the sidewalks, and half filled the streets. Houses were mere frame shells, or rough log huts. Prices of all merchandise were very high as the result of the 20 mile haul over mountain roads; the poorest shacks rented for $12 or $15 a month; fire wood was $4.50 per cord; and water sold for 5 cents a bucket or 40 cents a barrel.

---

[1] *Cripple Creek Illustrated*, Warren & Stride, p. 11.
[2] *vide* mines listed by the Colorado Springs Stock Exchange early in 1894.
[3] *Cripple Creek Illustrated*, Warren & Stride, p. 23.

General Economic Conditions

Under these conditions Cripple Creek was advancing rapidly toward its later position as one of the great mining camps of the world, when its development was temporarily arrested, and its attainment of this position greatly delayed, by a five months mining strike. To understand this strike fully it is necessary to get its setting, and to see clearly the forces that operated as direct causes or active impulses toward it: what conditions made a war between labor and capital imminent, and what influences led to the actual controversy.

In 1893 the United States was in the midst of a great financial panic. The expenditures of the government far exceeded its income. The reserve in the treasury was dangerously depleted, and the credit of the government was maintained by large bond issues. The business world was in a terrible condition. At the close of the year there had been over $500,000,000 withdrawn from national banks alone. To meet the demand these banks had been compelled to withdraw loans to the extent of $318,000,000. Five hundred eighty banking institutions had been compelled to suspend payment, with liabilities of $165,000,000. There had been over 16,000 business failures. $1,200,000,000 worth of railroad property had gone into the hands of receivers. Thousands of shops and factories had shut down: more thousands were working part time only: commercial houses and railroads were working under greatly reduced business: and as a result millions of laborers were idle.[4] It was estimated that in the city of Pittsburg alone 100,000 men were out of employment.[5] In every city men were eager to seize any opportunity to work for their board alone, and rumors were current of men offering themselves as slaves for life for a promise of mere subsistence.

It was a time prolific of strikes. Contemporaneously with the Cripple Creek strike came a great coal miners strike, cov-

[4] Wells, David C., *The Teaching of Our Recent Economic Experiences*, in *Forum*, January, 1894.

[5] Such estimates are usually greatly exaggerated. This one is quoted merely as throwing light on the general conditions.

ering Pennsylvania, West Virginia, and Ohio, and the great Pullman strike, which starting in Chicago swept eastward half way to the Atlantic, and southward to the Gulf, and westward to the Pacific coast. Coxey's Army was marching toward Washington, a great body of the protesting unemployed, and a special session of Congress had been called to consider ways of relieving the great financial stress.

In Colorado the conditions were even worse than elsewhere. Added to the general depression had come the rapid decrease in the price of silver, the consequent closing of the silver mines, and the loss of one of the state's greatest sources of wealth.

The labor difficulties common to the country and the state were shared by Cripple Creek. Evidence of severe conditions is perhaps best given by the size of the detachment that left the district on May 4th to join Coxey's Army in the march to Washington. Over three hundred strong it left Cripple Creek and Victor, under the leadership of General J. S. Sanders, with flying colors and beating drums. The Florence and Cripple Creek Railway furnished a free train for the army to Canon City, and the Denver and Rio Grande did the same to Pueblo. At Pueblo the men were fed and housed for a few days, and then took forcible possession of a Missouri Pacific train, and started off for Chicago. The officials of the road tried in every way to stop them, and at last wrecked a train to block the track. But the Coxey men cleared away the wreck and went on. They were forced to abandon their train by a second wreck in a cut, but stole another train a few hours afterward, and succeeded in getting half way across Kansas, where they were arrested, and finally dispersed by United States marshals.[6]

The labor difficulties incident to the closing of the silver mines fell upon Cripple Creek. To the great gold camp flocked the unemployed miners of the silver region, to find work in the gold mines, or to open prospect holes on their own account.

---

[6] See Cripple Creek District newspapers for May 4, and 5; Pueblo papers for May 5, and 6; Colorado and Kansas newspapers generally, for May 5-8, inclusive.

Indirect Causes of Strike

The situation was further involved by irregularity in the hours of employment at the mines, and the variation in the working day.

The camp was new, and had not settled down to regular life as yet, and custom had not been given time to develop its unwritten law. Men had not begun to do things as they found other men doing them. When a new mine started up, its owner or manager relied entirely upon his own judgment as to how it could best be worked, and there naturally arose a great diversity. Some mines worked three shifts a day, some two shifts, some one. In some of the mines the men worked eight hours, in others nine, and in others ten. Among the principal mines working eight hours may be mentioned the Isabella, the Pharmacist, the Zenobia, and the Pike's Peak. The principal ten-hour mines were the Strong, Granite, Portland, and Independence; and the principal nine-hour mines the Victor, Anaconda, Sunset, C. O. D., Gold King, and Ingraham. The wage at all the mines was uniformly three dollars per day, irrespective of the length of the shift.[7]

Here was a dangerous condition of affairs, one which must sooner or later result in trouble. It could only be a question of time until the men working in the long-time mines should awaken to the fact that their labor was as valuable as that of any other men, and demand as short a working day as the shortest; or until the mine owners of the short-time mines should discover that their money was as good as that of any other men, and demand as long a working day as the longest. Such unequal conditions could not long continue. Labor or capital would move presently, and under the economic conditions which we have just examined, with a large increase in the purchasing power of money, and thousands of men at hand ready to work for almost any wage, it is not hard to see from which source the movement was likely to come.

[7] The Portland mine which had a nine-hour day and $3.25 wage is an exception. President Calderwood estimates the number of men engaged in mining at the time as 1,200, about half employed in the eight-hour mines and half in the nine- and ten-hour mines.

Events Leading Up to the Strike

In August, 1893, H. E. Locke became superintendent of the Isabella mine. The Isabella was at that time working an eight-hour shift—seven and a half hours labor, one-half hour for lunch. Mr. Locke had been managing mines in other districts that worked much longer hours, and wished to lengthen the hours at the Isabella. Accordingly on the 17th of the month a notice was posted to the effect that, beginning with the following Monday, a mine shift would be ten hours, with one hour off for lunch.

On Sunday the miners held a meeting at which they agreed not to submit to the schedule, and when Monday morning came they did not go to work. When Superintendent Locke arrived at the mine the men met him, and a heated controversy ensued, Locke trying to bully the men into going to work, and the men trying to force him to rescind the order. After telephoning to Colorado Springs Mr. Locke concluded to withdraw the order for the time being, and later in the day the men went back to work on the old eight-hour schedule.[8]

The trouble at the Isabella seemed to arouse both sides to the danger of the situation, and the necessity for prompt action. A committee of miners was appointed to draw up resolutions, and soon after steps were taken to form unions. The Altman Union was the first to organize, and was admitted to the Western Federation of Miners, as Free Coinage Union No. 19, on the 12th of December. Following Altman, unions were formed at Cripple Creek, Victor, and Anaconda, with a total membership on January 1st of about eight hundred. At the time of the strike only Altman Union No. 19 had been admitted to the Federation. To secure authority and uniformity of action all the unions worked under the Altman charter, and the president of Altman Union was executive officer for all the unions of the district.[9]

[8] From the account of Mr. E. W. Pfeiffer, Chairman, Board of County Commissioners of Teller County (1903), who was a miner in the Isabella during 1893. There have been various conflicting stories as to the earlier stirrings of the difficulty. Mr. Pfeiffer's personal observation gives authenticity to his account.

[9] From John Calderwood's account of the formation of the unions: "Mr.



CRIPPLE CREEK UNDER MARTIAL LAW. GUARDING THE DISTRICT COURT.

So Altman, peopled almost entirely by miners, and located strategically within the mining area, became the center of the union movement and the seat of authority for the organized miners. Colorado Springs, the county seat of El Paso county, was the home of fully three-fourths of the principal mine owners of the district, and naturally became the center of the mine owners' movement. The Cripple Creek District being at that time included in El Paso County, there were thus two centers about which the coming conflict was to develop, Colorado Springs, the seat of county authority and the stronghold of capital, and Altman, the active scene of controversy and the stronghold of labor.

While the unions were organizing, the mine owners were not less active. Frequent conferences were held relative to the establishment of a uniform working day and the question of lengthening hours was constantly agitated among the owners of eight- or nine-hour mines. Finally, in the early part of January, the owners of the eight-hour mines came together in an agreement to increase the working day at their mines to ten hours, nine hours labor and one hour for lunch. Notices that set forth the agreement, and made February 1st the time for lengthening working hours, were received by the mine managers for posting, about the middle of the month. The appearance of the notices, first at the Pharmacist, then at the Isabella, Victor, and Summit mines, caused considerable stir among the miners.[10] Meetings of the unions were called immediately, at which resolutions

McIntosh immediately began corresponding with the men at Altman who were taking the lead in forming a union, with the result that a union comprising about 300 miners was instituted in the fall of 1893. Mr. McIntosh returning to Aspen shortly afterward, appointed myself his deputy, with instructions to organize the remainder of the district, with the result that in less than sixty days I had instituted unions in Cripple Creek, Anaconda and Victor. This achievement, in so thoroughly unionizing the district, was rewarded by a request for me to become president of Altman Miners Union No. 19. I did so. Although four unions had been organized in the district, only one charter had as yet been granted by the Western Federation, that to Altman Union No. 19. Each of the other unions elected a full set of officers, with the exception of president, working under the Altman charter; the president of that union presiding over the remaining unions in the district."

[10] The notice at the Pharmacist was posted January 17th, and was followed by the others a few days later.

were passed not to work in mines attempting to lengthen the labor day.

Manager Locke of the Isabella had never been popular with the mining men. He had been the first to conceive the idea of lengthening the working day, and the men now blamed him entirely for the present movement, and became very bitter against him. Becoming frightened he applied to the sheriff for a guard of deputies, and never appeared without them. In riding to and from the mine he was always preceded by an armed deputy, and followed by another one. This only increased the feeling against him, and a plan was finally made for his capture and eviction from camp.

On the morning of January 20th a large body of men collected in the rear of the Taylor Boarding House, and when Mr. Locke and his deputies came along, they were surrounded, disarmed, and started off on foot down the hill. Arriving at the Spinney Mill near Grassey, Mr. Locke, intimidated by threats, took an oath that he would never return unless permission were given by the miners, and that he would give no information against any one for driving him from the district.[11] He was then given his horse, and started off toward Colorado Springs, where his arrival late in the evening produced great excitement. One of the deputies captured with Mr. Locke was a man named Wm. Rabedeau, who will appear several times later in the difficulty.

The miners' unions had already agreed that the men should be called out from all mines that attempted to lengthen the working shift. On January 8th they went a step further and demanded a uniform eight-hour day for the whole district.[12] February 7th was set as the date for calling out all men working over eight hours.

The two sides were thus arrayed against each other, the mine owners standing for a ten-hour day, the miners for an eight-hour day. In the contest that was to follow the conditions were decidedly favorable to the owners. As we have seen, the coun-

[11] Accounts by eye witnesses.

[12] By resolution passed after a speech by President Calderwood strongly urging such action.

try was in the throes of a financial panic, and as far as the labor market was concerned the purchasing power of money had doubled. Thousands of men were unemployed, and willing to work for almost any wage. The mines were generally dry, and would not suffer from a few months' idleness, and there were no expensive plants to depreciate in value by lying idle. Two railroads were being built into camp, and a wait of a short time would simply mean a saving of about three dollars a ton on the transportation of ore. The conditions for the miners were disheartening. Provisions and rents were very high; their unions were but newly formed, only one having a charter from the federation; there had not been time for the development of a strong unity of feeling, for thorough organization or for the collection of a large treasury fund upon which to draw—things so necessary for strength in a strike. When one reads, then, that the miners won their fight, he will expect to find that extraordinary forces had been acting, and that startling things had happened, nor will he be disappointed.

The key to the explanation is to be found in the character of the men themselves. It must be remembered that Cripple Creek was not the ordinary mining camp, but a newly settled, essentially frontier, district. The men were not of the mining population familiar to the coal fields—foreign born, ignorant, used to obedience, easily cowed—but of the characteristic frontiersman type, come not so much to find work as to seek a fortune. Rough, ready, fearless, used to shifting for themselves; shrewd, full of expedients; reckless, ready to cast everything on a single die; they were not the kind of men to be caught napping, or to be turned from their purpose until every possible resource had been tried. They would act quickly, shrewdly, and effectively; withal straightforwardly, but with small respect for authority, and none too much for law. Nor were the mine owners generally of the usual capitalistic type. The majority of them were as much frontiersmen as the miners themselves, men who had gained their wealth by successful prospecting, or by lucky buying in the early days of the camp. It was Greek against Greek, similar ideas and strong methods on both sides.

CHAPTER II

THE TWO CRISES

The First Crisis

Several attempts were made to get the two sides together in a compromise before February 1st. On the evening of January 28th, mainly through the influence of Cripple Creek business men, a meeting of miners, mine workers, and neutrals was held at the Palace Hotel, Cripple Creek. The miners proposed as a compromise, that the mines be allowed to work just as they had been doing, the eight-hour mines to continue on the eight-hour schedule, and the nine- and ten-hour mines on the nine- and ten-hour schedules. The owners, however, took no action on the proposition.

On February 1st the mines that had posted notices went on the ten-hour shift. The men walked out, closing them down. On February 7th, early in the morning, a party of union men started the round of the district, stopping at every long-time mine and calling the men out. By noon every nine- and ten-hour mine in the camp was closed. The Pike's Peak, the Gold Dollar, the Portland,[1] and a number of smaller mines, acceded to the eight-hour request, and continued to work.

The following month was one of comparative quiet. The men

[1] President James F. Burns, of the Portland, in a published letter concerning the attitude of the Portland, said: "During the time of what was known as the 'Bull Hill War' or more correctly speaking, the labor trouble of 1894, the Portland was working about 125 men, while the principal officers and stockholders—including myself—lived at the mine and were in the closest possible touch with all employes, knowing each other personally. During the time that trouble existed elsewhere in the district, everything went smoothly at the Portland. We had been paying $3.25 per shift of 9 hours, which permitted the working of only two shifts. We promptly made a new scale of $3.00 for 8 hours which was accepted by the union, and 3 shifts instead of two, put to work."

conducted themselves in an orderly manner, and were content with strengthening their organization in very way possible. John Calderwood was elected president of the unions.[2] Mr. Calderwood had been influential in the organization of the Western Federation of Miners. He had also been president of the Aspen Union, and his intimate knowledge of labor organizations, and general popularity with the men, secured his election to the presidency. Throughout the strike he showed himself an able and efficient officer.

The immediate task before the union was to provide a relief fund. This was done in several ways. The men who remained at work on the eight-hour schedule were taxed $15.00 a month. The Green Bee Grocery Company of Cripple Creek gave credit amounting in the end to about $400; $1,000 was loaned by business men of Cripple Creek, $700 was received from the miners of the San Juan country, and $800 from the Butte, Mont., unions. Empty boarding houses were occupied by the unions; cooks volunteered their services; and everything was run on as economical a scale as possible. In this manner the months of the strike were passed without much pinching. Many of the men occupied themselves with prospecting and developmental work, or tried their luck in the small and poorly paying placer area.

By the last of the month the smelters of the state were all running with reduced forces, or had shut down entirely. Early in March the Gold King and Granite mines agreed to the eight-hour schedule, and resumed work.[3] Following this, determined efforts were made to reopen several mines on the ten-hour schedule, but the miners were able to keep them closed. Men sent up were persuaded if possible to quit and join the union,

[2] Mr. Calderwood was born in Kilmarnock, Scotland, and was put to work in the coal mines of that place when nine years old. He gained a common school education through the night schools of that town. Coming to this country when a young man of seventeen, he engaged in mining in the eastern states for a number of years. He then attended the McKeesport school of mines, and upon being graduated in 1876, came to Colorado. Here he held various mining positions, and came to Cripple Creek in November, 1893. After the strike he remained in the district as an assayer.

[3] President Calderwood estimates that 300 union men were at work in the eight-hour mines after this time.

otherwise they were threatened and intimidated until they did not dare go to work. The men were beginning to feel ugly, and a number of mines were being put under the guard of armed deputies.

March 14th, on the application of several of the mining companies[4] Judge Becker, of the district court, issued an injunction against the miners enjoining them against interfering in any way with the operation of the Cripple Creek mines.[5] Sheriff Bowers took one hundred copies of the injunction to Cripple Creek next day, and spent the entire day in posting them throughout the district. The Summit, Victor, Raven, and Anaconda mines made attempts to open, but only from two to five men appeared at each.

Feeling was running high among the miners regarding the injunction. The sheriff feared trouble, and on his return to Cripple Creek telephoned to Colorado Springs for additional deputies. Soon after he was called to answer a telephone message from the Victor mine. The superintendent of the mine had, a few days previously, asked that a number of men be deputized to protect it. He now reported that men were collecting around the shaft house in a threatening manner, and asked for additional protection. The sheriff replied that he should have it. A wagon was procured, and six men hastily deputized and started out for the mine.

It was a rough mountain road along which the men had to travel, full of stones and ruts among which the wagon lurched heavily. In the darkness it was impossible to make out the path, the instinct of the horses had to be trusted to keep it. At one point about a quarter of a mile below Altman the road passes through a short ravine. Huge rocks lie piled around, leaving scarce room for a wagon to pass, and a thick growth of bushes lines the way and runs up over the hillsides. As they reached this point there was a quick rush of dark forms from behind bush and stone, and a cry of "Hold up your

[4] The Gold King, the Strong, the Isabella, the Victor, the Summit, the Zenobia, the Ingraham, and the Free Coinage Mining Companies.

[5] Copy published in Colorado Springs *Gazette*, for March 15th.

hands! Surrender!" Someone fired a shot; there was a quick skirmish; a deputy got a ball through the arm. Then they were overpowered, bound, and marched off in silence up the hill.

To understand what had happened we must go back a few months to the time when Altman was incorporated as a city. The residents of the place were for the most part miners, and with the idea of investing the miners' union with all possible civic authority, officials of the union had been elected to all city offices. Thus it happened that Mayor Dean of Altman, and City Marshal Daly, were former members of Altman Union No. 19. The Marshal had word by telephone early in the evening that a number of deputies would be sent along the road that passed Altman. He accordingly appointed a number of special police, and the police of Altman ambushed the El Paso County deputies, and took them prisoners.

The deputies were marched into Altman and shut up in the school house. Later in the evening they were taken before Police Judge Bengley[6] and examined on a charge of disturbance of the peace and carrying concealed weapons. Upon showing their credentials as deputy sheriffs, they were released and sent back to Cripple Creek. The city was in need of arms so the deputies went back weaponless.

Meanwhile news had reached Sheriff Bowers that his deputies had been captured, that a fight had ensued, and that Altman was in an uproar. In half an hour Cripple Creek looked as if an army had descended upon it. All the livery stables in the city had been called upon for their horses, and Bennett Avenue for a block was full of mounted men. Every able-bodied man procurable had been deputized and armed, and a miltary formation was being effected as rapidly as possible. The sheriff was preparing to rescue his men with all the force he could muster.

The tension was broken, however, by the return of a deputy with news that the rest had been released, and were following him in.

The following morning the air was full of rumors. Several

[6] Also a member of the federation.

men were reported killed or wounded; the miners were said to be in arms everywhere, and to be guarding all roads leading to Altman. Sheriff Bowers, after advising with the district court judge at Colorado Springs, made a call for the state militia. Governor Waite immediately issued orders to Company A of Colorado Springs, Company C of Pueblo, and Companies B, E, and K of Denver, and the Chaffee Light Artillery, about three hundred men in all, to proceed with all possible dispatch to Cripple Creek and preserve the peace. These troops collected in Colorado Springs under the leadership of Generals Brooks and Tarsney on the day following. They were taken to Midland over the Colorado Midland Railway and after an all-night march over the mountains, arrived at Cripple Creek early the next morning.

In the meantime Sheriff Bowers had secured the arrest of Mayor Dean and Marhall Daly of Altman, and President Calderwood of the Altman Union. He now made a flying trip to Colorado Springs with the three men, and secured warrants for eighteen more. Calderwood, Dean, and Daly were released on bail, and made a tour of the principal cities of the state, holding mass meetings in the interest of the miners. Sheriff Bowers returned to Cripple Creek with his warrants, and called upon General Brooks for aid in serving them. General Brooks inquired if there had been any resistance made to arrests. The sheriff replied that there had not. The general then refused to aid in making the arrests, upon the ground that he was there simply to preserve the peace, and as much to protect the miners as the county authorities.[7]

---

[7] The above is Sheriff Bowers' account of the dispute. The Adjutant General gives the story somewhat differently.

"Early in the day General Brooks and myself were asked to a conference with the officials of the county and the business men of Cripple Creek, whom we met to the number of perhaps 30 at the Palace Hotel. They represented to us the terrible conditions existing in the city and adjacent mining camps, representing that there was no safety for life or property in either, and declaring that the civil authorities were unable to preserve the peace; that the roads and trails were guarded by armed men, openly defying the officers of the law. The sheriff of the county, Mr. M. F. Bowers, was present, and declared his inability to serve the processes of the courts. A careful inquiry into these affairs by General Brooks and myself disclosed the fact that no person in the county had been charged with the commission of any offence in regard to the existing

On the same day[8] the union officers were called to a conference with the generals at the Palace Hotel. The union men asserted that they had never had the slightest intention of resisting the sheriff, or of adopting violent measures; that the whole action had been taken by the city officials of Altman, who had thought the movement of the deputies an attempt to capture the city. They asserted that no resistance whatever had been made to arrests, and that none would be made.[9] Their statements were telegraphed the governor, and at the same time the following message was sent by the trustees of Altman: "Militia arriving in Cripple Creek. Did you send them and what for? Everything quiet here." Next day the troops were recalled.[10]

During the last few days of excitement another movement had been on foot looking toward a compromise. Just before his arrest, President Calderwood met in conference at the Independence mine with W. S. Stratton and Chas. Steele. After considerable discussion Mr. Stratton proposed as a compromise to lay before the union, that the mine should work a nine-hour day shift and eight-hour night shift, with pay at $3.25. The union at first rejected the offer, but two days afterward reconsidered, and accepted it. The Independence started on the new schedule March 19th. None of the other mine owners followed Mr. Stratton's example, however, so the movement was without much result. It is to be regretted that the other owners did not see their way clear to follow Mr. Stratton's action. Had they been as willing to come to a compromise at this period as were the miners, the difficulty would probably have been settled on the

---

labor troubles, and that no warrant or other process of court had ever issued, and that neither the sheriff nor any of his deputies had ever been resisted in any way, nor had Sheriff Bowers ever been, or had he ever sought to go to Bull Hill, where it was alleged the trouble existed. After this conference I told Sheriff Bowers that the troops were there at his solicitation, but only in aid of the civil authority in the service of process; that on his own showing no process had issued from the courts, the military was not subject to his order, and that the facts in the case would at once be made known to the governor."

[8] March 18th.

[9] "That no resistance to constitutional authority had been offered by anyone in the mining districts, and that no disturbance of any kind had occurred beyond the ordinary small offenses that are constantly occurring in mining camps."

[10] For copies of the military orders of this time, and messages, see *Biennial Report of Adjutant General* 1893-4 p. 35 and following.

spot, and all the turmoil, danger, and expense of the months of May and June avoided.

The Second Crisis

There followed a period of six weeks of comparative quietness. The eighteen miners against whom warrants had been issued submitted peaceably to arrest. All pleaded not guilty in the district court at Colorado Springs, and all were upon trial acquitted.[11]

The troublesome week in March had advertised the strike widely through the newspapers, and the result was a large influx of a rough element into the district. The most turbulent element from the Cœur de A'lene District came in large numbers, and tramps, and criminals, and roughs of all description flocked in from all directions.[12] Many of these men were admitted to the miners' unions. And here is where the union made its great mistake.[13] The evident willingness of the union to come to a compromise in the trouble, the peaceful submission of its members to arrest and their acquittal by the courts, and the mass meetings held by President Calderwood, had gained a large degree of sympathy for the men throughout the state. But the overt acts later committed by a few criminal men, and the reign of terror brought on by the rougher element, lost them the prestige which they had earlier gained, and brought upon them the just condemnation of the law-abiding citizens of the state.

---

[11] See *District Court Records*, Colorado Springs, June—August, 1894. *People vs. Calderwood, Dean, Daly et al.*

Several cases, all of which were dismissed but two, which resulted in acquittals.

[12] It has been frequently stated that numbers of the famous Molly Maguires, of Pennsylvania, came to the Coeur de A'lene District, and that, the organization being broken up there in 1893, descended upon Cripple Creek. No direct evidence has ever been adduced on this point.

[13] A number of the more conservative members of the unions left them because of the dangerous element admitted at this time. A noteworthy case is that of E. W. Pfeiffer (see as County Commissioner in the strike of 1903–4). He was later opposed politically by some of the unions for this action.

It will be remembered, that at the time of the first trouble between Superintendent Locke and the employees of the Isabella, one of the deputies captured with him was a man named Wm. Rabedeau. Mr. Rabedeau was also warned to leave camp, and did so, but returned shortly afterward. He was deprived of his commission as deputy by Sheriff Bowers, but remained as a guard in the employ of some mine owners.

On April 8th the miners' union started out in a body to attend the funeral of a miner who had been killed in an accident. Scattered around everywhere they found "dodgers" calling a meeting at Anaconda for 11 o'clock, the time set for the funeral. The funeral services were short, and the men hurried over to Anaconda, where they found the meeting already called to order, with Rabedeau and another man named Taylor presiding, and Rabedeau making a speech in favor of going to work on the ten-hour schedule. It was evident that the scheme was to have the meeting pass resolutions favoring going to work on the ten-hour schedule, and to report in such a way to the press as to give the impression that the majority of the men were in favor of going to work, but were being intimidated by radical members. The men were greatly infuriated. Rabedeau was taken from the platform and terribly beaten. Later he was subjected to all sorts of indignities, and run out of camp, with the threat that next time he showed his face in the district his life would pay the forfeit.

During the latter part of April, and throughout May, conditions grew steadily worse. The rough element was gradually becoming more prominent, and the men were getting into a more threatening mood. Small bands of men raided throughout the district, stealing provisions and arms and ammunition, getting into drunken rows, and sometimes maltreating non-union men. Many of the smaller merchants in isolated places closed their stores entirely, and families in the unsettled districts very generally moved into the towns.[14] Sheriff Bowers spent his whole time in the district, but hampered by the re-

[14] From the testimony of a number of small storekeepers, and families occupying outlying cabins, who deserted their homes and stores, sometimes to have them raided in their absence.

fusal of the county authorities to furnish sufficient deputies, found it exceedingly difficult to preserve any semblance of order.

Early in May various discussions were held among mine owners relative to making a determined effort to open the mines. It was felt that something must be done soon. No mines had been able to open as yet, and under the present conditions, violent opposition was expected. The movement finally resulted in the quiet circulation of a subscription paper, and the offer by the mine owners to the county to advance arms and money, if a large body of deputies should be enrolled to protect the opening of the mines. The offer was accepted by the county commissioners, and steps were taken to carry out the plan at once.

Word of the plans of the mine owners had early reached the miners and they began to prepare to resist to their utmost. President Calderwood was in Salt Lake City attending a convention of the Western Federation of Miners, and J. J. Johnson[15] came to the front as the military leader of the union. Mr. Johnson proceeded to get the miners into as complete military organization as possible. Headquarters and a military camp were established on Bull Hill.[16] The choice was an unusually fortunate one. Bull Hill is a high steep bluff, overlooking the town of Altman. It overtops several of the most important mines, and is at once the most commanding and most inaccessible point in the district. A large boarding house was established, a commissary department put in operation, systematic search made for arms and ammunition; and as thorough military discipline enforced as was possible under the conditions.

On May 24th, one hundred twenty-five deputies, largely ex-

[15] Mr. Johnson was a native of Lexington, Ky., growing up among the feuds of that state. He attended West Point for three years, but was dismissed before the completion of his course for participating in a hazing scrape. Drifting west he took up mining at Aspen, and later came to work at Cripple Creek. At the close of the strike he left the state to avoid arrest. On the opening of the Spanish War he was appointed colonel of an Arkansas regiment, but died while on the way to the sea coast with his command. He was a man of unusual ability, and of considerable military genius.

[16] There was a report, generally believed at the time, that an immense log fort had been built on Bull Hill, and a cannon placed in it. No such fort was built, nor did the miners possess a cannon at any time.

police and ex-firemen, left Denver in command of ex-Chief of Police J. C. Veatch. They were armed to the teeth, and prepared for immediate action. The miners had news of their departure, and prepared to give them a warm reception. There was still an insufficient supply of fire arms, so a raid was made on a Cripple Creek hardware store for rifles and ammunition; the Victor Mine also was held up and a number of Winchesters taken from it. The commissary department got in a number of range cattle. Orders were issued, and everything put in readiness.

The deputies arrived next morning on the Florence and Cripple Creek Railway, and prepared to go into camp in full view of Bull Hill. The miners had prepared to show that they were determined, and to give the deputies an object lesson. As the train pulled into view a party of men hastened down the hill, warned everyone away, and placing large charges of dynamite in the shaft house of the Strong mine blew it to pieces with a tremendous explosion.[17]

Then pandemonium broke loose. The day before the Florence and Cripple Creek Railway had completed the grading on its line and discharged nearly two hundred laborers, each with a

[17] It has been generally believed in some quarters that the blowing up of the Strong mine was accomplished by Mr. Sam Strong himself, in order to prevent the property from being worked, and in this manner to break the valuable lease, which would revert to himself. This is exactly what did happen, and Messrs. Lennox and Giddings, the lessees of the mine, later brought suit for heavy damages against Mr. Strong on the above charge. The admission by prominent union men that the mine was really destroyed by a party of miners now settles the question beyond doubt, and clears Mr. Strong of all suspicion.

Following is the account given by President Calderwood. See Langdon, Mrs. Emma F., *The Cripple Creek Strike*, p. 41.

"The following morning a number of men quietly entered the building of the Strong mine and ordered Sam McDonald, Charles Robinson and Jack Vaughn to come out. They declined to do so and retreated down the shaft. Dynamite was then deliberately placed in the boiler inside the shaft house, and with an electric battery, the same was exploded, demolishing the building together with its valuable machinery. Great interest in the fate of Sam McDonald and the two men with him in the shaft of the destroyed Strong mine was felt, but twenty-six hours after the calamity, voices were heard in an old shaft connected with the main shaft of the mine by a drift, and the imprisoned miners were taken out. After getting washed and something to eat, they were taken to what was known as 'Bull Hill stronghold.' Charles Robinson suffered considerably as a result of his terrible experience, but none of the others suffered to any extent. Who was responsible for the destruction of the Strong mine is still a mystery."

pay check of from ten to twenty dollars. These men all came into camp; pay checks were exchanged for cheap whiskey, and the usual result followed. At such times every man considers every other man his chum and whiskey is free for everybody. Railroad men, miners, toughs, all shared in a terrible debauch, and by the time the Strong mine was blown up hundreds of men were crazed with liquor. A car was loaded up with dynamite, and prepared to run down into the deputies' camp and blow them into atoms. But the deputies had taken warning and retired several miles down the track to a safer place. Then the cry went up to destroy the mines. Men ran for dynamite and fuse, and for a time there was every reason to expect enormous destruction of property. But Mr. Johnson, with the help of his aids, had been working constantly, asserting his authority and endeavoring in every way possible to quiet the men. At last he succeeded by diverting their attention toward attacking the deputies, in getting control of them, and the danger was avoided.[18]

The energy diverted from the destruction of property expended itself in an attack upon the deputies. The deputies, it will be remembered, had become aware of the danger of their position, and retiring some distance down the track they had gone into camp at Wilbur. Just where they were the miners did not know, but it was determined that wherever they were, an attempt should be made to capture them and get possession of their arms. Arms were still lacking at the miners' camp.

About midnight a Florence and Cripple Creek construction train was captured, quickly filled with men, and with a miner at the throttle, started down the track for the deputies' camp. The deputies, anticipating attack, had pickets out in all directions. Unawares the train ran into the the picket line. A few quick shots brought it to a standstill. The miners poured out among the rocks; the deputies, roused, hurried to the assistance of their pickets, and the fight was on. There was no semblance

[18]The miners' unions, and the people of the state in general, owe a debt of gratitude to Mr. Johnson for his heroic work on that day. Had hundreds of drink-crazed men broken loose with unlimited whiskey and unlimited dynamite, the result had defied description. Scarcely a mine in the district would have been left whole, and one may hardly hazard a guess as to other consequences.



State Militia on Guard at District cc, During Habeas Corpus Trials.

of order. Every man fought for himself, shielding himself so far as possible behind tree or rock, and firing in the darkness at the flash of the opposing guns. Five miners got separated from the main body and into a swarm of deputies, and were captured. A deputy, the man named Rabedeau who has appeared before in these pages, received a shot in the chest and was killed almost instantly. A miner, George Crowley by name, was accidentally shot from behind by one of his comrades and was found dead in the morning.

A half hour's fighting convinced the miners that they could gain nothing. Skipping from rock to rock, and firing as they went, they began a gradual retreat up the valley. The deputies held their position. Little by little the firing ceased. All was quiet again, and doubling their pickets, the deputies turned in for the remainder of their night's rest.

News of the blowing up of the Strong mine reached Colorado Springs early in the day and caused great excitement. Later the feeling was intensified by the arrival of Mr. Strong himself, who had witnessed the destruction of his property, and ridden all the way to bring the news. A number of men were known to have been in the mine at the time of the explosion, and they were all supposed to have been killed. Business was suspended, and excited groups of men discussed the question along the streets everywhere.

A mass meeting was held in North Park, at which resolutions were passed calling upon the county authorities to put down the insurrection of the miners, and to restore law and order at whatever cost. In the evening a call went out from the sheriff's office asking for volunteer deputies to go to the scene of action, and calling upon all citizens to bring in arms to equip the posse. Over a hundred armed men left the city for the deputy camp next morning, and another hundred on the day following. Men were also being hurried in from Leadville, and Denver, and all the surrounding country. The deputy camp was transferred from Wilbur to Divide, a point farther north on the Colorado Midland Railway, and here all the new recruits came.

Miners heard men talking down in the shaft of the Strong mine, and compelled them to come out. They proved to be

Superintendent Sam MacDonald, Engineer Robinson, and Miner Greenough, the men who were known to have been in the mine when it was blown up, and supposed to have been killed. Between hunger, and cold, and smoke from the burning timbers, they had had a terrible and almost fatal experience. They were taken to Bull Hill by the miners, and held as prisoners in retaliation for the capture of the five miners at Wilbur.

Governor Waite issued a proclamation on the 28th, in which he called upon the miners to desist from their unlawful assembling, to lay down their arms, and cease their resistance of the law. At the same time he declared that the assembling of a large force of deputies by the county authorities, largely from outside the county, was illegal, and demanded that it be disbanded immediately.[19] An order was issued calling upon the state militia to be in readiness to move at a moment's notice.

President Calderwood had returned from Salt Lake City on the same day that the Strong mine was blown up. Instantly perceiving the danger of the situation, and the remedy, he set about getting all the saloons of the district closed for a period of two days. He succeeded, and at the end of the time the men had come to their senses again, and some degree of quiet was restored. The union was aroused at last to the necessity of getting entirely out of sympathy with the lawless element that had come in, and a volunteer committee of fifty took in charge the running out of camp of toughs and thugs.

---

[19] Governor's Proclamation, May 26, 1894.
cf. also Last Message of Governor Waite to the Legislature.

CHAPTER III

THE FORCING OF THE ISSUE

Attempt at Arbitrition

During the exciting events of these few days, a quiet movement had been started in Colorado Springs aiming at a compromise. To the more conservative and thoughful citizens the situation at Bull Hill seemed one of grave concern. Should the two bodies of armed men that stood face to face, constantly augmenting their numbers, and becoming daily more deeply embittered against each other, come into conflict, the loss of life, terrible as it might be, would be but the beginning of the disasterous results that would follow. Everything possible, it was felt, must be done to prevent a clash. Could the two sides be induced to hold a conference, the seriousness of the situation would tend to force both to make concessions, and a compromise might be effected. But how get the two factions together? Some man must be found willing to undertake the work who was well known, whose neutrality would be trusted by both sides, and who would have no interest in subordinating the main object of his work to political ends of his own. He must be a man, moreover, who would be willing to take some personal hazard in the matter, for judging from the reports that had come to Colorado Springs, an outsider who should attempt to go on Bull Hill would take his life in his hands.

The movement resulted in a call upon President Slocum, of Colorado College, by J. J. Hagerman, one of the most prominent and conservative of the mine owners, with the request that President Slocum go to Bull Hill as a neutral party, to see what the attitude of the miners would be toward an arbitration committee. President Slocum would be authorized to say that

the mine owners were willing to meet the miners in such committee, and to make some concessions toward a compromise. After some discussion the president agreed to go. The Rev. E. Evans Carrington, who was well known as a friend of organized labor, also several members of the Colorado Springs labor unions, were asked to accompany Dr. Slocum.

The party left Colorado Springs late Saturday evening, May 26th, arriving in Cripple Creek early Sunday morning. Communication was held with President Calderwood over the telephone, and then the party started out on foot for Altman. As they arrived at the foot of Bull Hill a sentry stepped from behind a rock, and with levelled Winchester, and the cry "Hands up!" brought them to a standstill. Upon learning their names and business the sentry said he had instructions to pass them, and proceeded to conduct them to Altman and the headquarters of the union.

At headquarters the party was met by President Calderwood, who took President Slocum into his office immediately for a conference. Dr. Slocum stated that he came representing no one in particular, but the people of the county in general, to see if some arrangement could not be made to arbitrate the present difficulty. Mr. Calderwood replied that arbitration was one of the cardinal principles of the union, that the union had been willing to come to a compromise all along, and was still willing to do so. Dr. Slocum then asked what conditions they thought they ought to have in a settlement. Mr. Calderwood replied that the men felt that they should have an eight-hour day and a three-dollar wage, and upon Dr. Slocum bringing up the question, added the clause that there should be no discrimination between union and non-union men. The question of a committee was then discussed, and it was practically decided that two representatives of the union should meet two representatives of the mine owners somewhere on neutral ground, and that these four should appoint a fifth, the committee to have authority over the questions in dispute.

Some further conversation ensued, and then Mr. Calderwood invited President Slocum to address the miners. Upon his acceptance of the invitation, runners were sent out through

the camp, and soon between three and four hundred men were gathered. To them President Slocum spoke for about an hour, advising them to meet the mine owners half way in the proposed compromise; calling upon them to respect the laws of the state, and pointing out that an armed resistance of the authorities could only end finally in disaster to themselves. Mr. Carrington and Mr. Collais also made brief addresses.

There were still some effects of the over-abundance of whiskey visible among the men, and some of them were in an ugly humor. So much so that Mr. Calderwood had some fears for the safety of Dr. Slocum while making his address.[1] The party, however, left Altman undisturbed, and returned immediately to Colorado Springs.

On Monday afternoon Mr. Hagerman called President Calderwood by telephone to discuss matters pertaining to the arbitration committee. The miners had held a meeting in the meantime, however, and instructed their president to consent to the committee only on condition that the mine owners should previously agree that union men be given preference in employment at the mines. Upon this condition being communicated to Mr. Hagerman, he replied that the mine owners would never consent to such a condition, and so the attempt to secure a compromise failed.

Later in the day a remarkable event took place on the mesa below Altman. It will be remembered that the deputies had taken five prisoners in the battle near Wilbur; also that in retaliation the miners had imprisoned the three men taken from the Strong mine. President Slocum, while at Altman, had arranged for the exchange of the three men for the five imprisoned miners, and Monday afternoon the exchange took place. A deputy sheriff came up from Colorado Springs with the five miners; one of the union officers came down from Altman with their three prisoners; and meeting in a prearranged

[1] That his fears were not groundless was shown by the fact that an old German stood close to the president while he was speaking, and occasionally rubbing the muzzle of his Winchester against him, would pat it affectionately, and remark: "Dat's good for twenty-five deputies." The man was known by Mr. Calderwood to be one of the worst characters in the union. He was afterward hanged for killing a man in a saloon fight.

spot, the exchange took place with all the military formality of war. This is probably the only instance of a strike in which rights of belligerency were recognized, and a formal exchange of prisoners made.

The Mission of Governor Waite

Governor Waite had been closely following events at Cripple Creek. For a week his private secretary, Michael Lorentz, had been in the district making thorough investigations and reporting daily by telephone. Upon the failure of the proposed committee of arbitration pressure was brought to bear on the governor and he finally decided to see what influence his presence at the seat of difficulty would have toward a settlement. He accordingly telephoned the miners of his intended visit and wish to confer with them, and went into the district on the afternoon of May 30th.

The same afternoon a heavy rain and snow storm settled down upon the Cripple Creek District. A few hours of the storm closed the railroads by landslides and cloudbursts, and broke down every telegraph and telephone line, isolating the district completely from the rest of the world for a period of four days.

In Colorado Springs this was a period of great anxiety. The number of deputies at Camp Divide was known to have reached nearly a thousand. They were supposed to be about ready for an attack upon the miners, and news of a terrible battle was expected daily. All sorts of terrifying rumors filled the air. A mass meeting of citizens on the evening of the 30th decided that the city was in danger from the lawless element, and called for volunteers for a "Home Guards" organization to protect the city. About one hundred fifty men came forward, and were formed into squads which patrolled the outskirts of the city night and day. A Woman's Relief Association was formed, to prepare medicines and bandages, and make plans to care for the wounded in the coming conflict. A 4-11 alarm on the fire bell was arranged for as a danger signal. A wild report caused the alarm to be sounded one night. The Home Guards turned

out in mass, and every other able bodied man who could find a weapon followed, and the city was in an uproar until morning.

At the deputy camp the days passed in quiet preparation. Strict military discipline prevailed. The men were comfortably housed in huts built of railroad ties and in box cars. Pickets were posted in all directions to guard against surprise. There was daily drill and instruction in tactics. As soon as the storm ceased and the roads were open there would be enough men for the forward move, and the men waited eagerly for the time.

The effects of the storm were most severe at the miners' camp on Bull Hill, and the fortitude of the men through the days of snow and rain gave conclusive proof of their determination. Strict military discipline was in force here also. There was daily drill, and a daily session of court martial. The men were fed at the army boarding houses, supplied by the commissary department. Every few minutes throughout the day an aide left "General" Johnson's headquarters with orders for some part of the camp. The picket system was perfect: every road was guarded for miles around Bull Hill.

Governor Waite got into Altman ahead of the storm, and immediately held a conference with the union. In a lengthy speech he promised the men his friendship and help in settling their difficulties. At the same time he demanded that they cease their violent opposition to law, and appoint a committee to confer with the mine owners relative to a compromise. The union elected the Governor and President Calderwood a committee with absolute power to act for them in a settlement, and on the day following they left for Colorado Springs.

The condition of the roads was such that the trip to Colorado Springs occupied three days. The party had to walk all but fourteen miles of the distance to Florence. Then the tracks were found to be washed out between Florence and Pueblo, and a long detour had to be made through La Junta. Finally, about noon, June 2nd, the train bearing Governor Waite and Mr. Calderwood pulled in at the Denver and Rio Grande station at Colorado Springs. Word of their coming had been telegraphed

ahead to Mr. Hagerman, and arrangements made for a conference at Colorado College in the afternoon.

At 3 o'clock the conference met in the society room of Palmer Hall—now the hall of Cutler Academy. Governor Waite, acting for the miners, and J. J. Hagerman, for the mine owners, discussed the question formally. Besides these two gentlemen there were present President Slocum, of the college; Judge Lunt, W. S. Jackson, and a number of others.

Mr. Hagerman opened with a statement of the difficulty, and the attitude of the mine owners toward it. Governor Waite spoke urging that the trouble be settled in some way, and ended by setting forth the conditions under which the miners were willing to return to work. These conditions were, briefly:[2]

1. An eight-hour working day for which $3.00 should be paid.

2. None but union men to be employed.

3. No one to be prosecuted for any act committed during the strike.

To the first proposition Mr. Hagerman replied that it would be conceding all that the miners had originally struck for, and would be no compromise. Concerning the second, he said that he would never be a party to an agreement that militated against the right of any American citizen to take work wherever he could find it. Regarding the third, he said it was inconceivable that the governor of the state should object to the law taking its course, and that in any event that was a matter for the El Paso County authorities, not the committee, to decide. The argument finally narrowed to the matter of the employment of non-union men, and waxed warmer and warmer, the governor especially becoming greatly excited and using the strongest kind of language. Three hours had passed and nothing was yet accomplished, when word suddenly came to the conference that the building was surrounded by armed men, and that the campus was rapidly filling.

News that Calderwood had come to the city with the governor spread rapidly through the city in the early afternoon, and

[2] Account by President W. F. Slocum of Colorado College, who was present during the entire conference.

everywhere groups of men discussed the possibility of his being arrested while under the protection of the governor. The newspapers of the Springs had blamed Mr. Calderwood with everything real and imaginary that had happened recently at Cripple Creek, and feeling against him was running high. Such a chance to get hold of him it was felt ought not to be let go by. Some hothead suggested that if the law could not reach him the people could, and declaring that he would shoot him on sight, started off with his gun for Palmer Hall. Others, among them several prominent citizens of the city, followed his example, and soon there was a string of armed men hastening toward the college. Excitement became intense. Downtown on the street corners men harangued the ever-increasing crowds. The cry went up to lynch Calderwood and the governor, too; and being taken up was repeated on all sides. Self restraint was thrown to the winds and there was a general rush for the college campus.

At Palmer Hall word was sent in that the building was surrounded, and that two or three men were even in the hall declaring that they would shoot Calderwood when he came out. There was a hurried adjournment, followed by a rapid making of plans. Judge Lunt stepped out on the porch and began an impassioned speech to the crowd on the terrible disgrace they would bring upon the city if they should lynch President Calderwood, and especially if they committed any overt act against the governor. While he held their attention, the governor, with Mr. Calderwood on one side and Private Secretary Lorentz on the other, slipped quietly out at the rear door, and hurried across the campus to the cab which was waiting for them. They were driven to the depot, where the governor's private train was waiting for them with steam up, and soon after pulled out for Denver. Just before the train left Colorado Springs, the governor had word from the mine owners, finally rejecting the propositions offered by him for the miners at the afternoon conference.[3]

[3] At this time the miners in many of the camps of the state were organizing armed companies to go to the aid of the miners at Cripple Creek. At Rico, a company of 100, under the command of William Simpson, siezed a train on

Two days later Mr. Hagerman went to Denver, and in company with David H. Moffatt, had another conference with Governor Waite. At this conference Messrs. Hagerman and Moffatt acceded to the demand of the miners for an eight-hour day, and three-dollar wage, specifying that the men should lunch on their own time. Governor Waite, on his part, withdrew the demands for employment of union men only, and for no prosecutions, and articles of agreement were drawn up. As there was no definite organization among the mine owners, Messrs. Hagerman and Moffatt could, of course, sign the agreement only for themselves. It was understood, however, that they virtually represented the mine owners, and that the other men would stand by their agreement. The following days proved this to be true.

The articles of agreement were as follows.[4]

"For the purpose of settling the serious difficulties between employers and employees in Cripple Creek Mining District, El Paso County, Colo., it is agreed by and between Governor Davis H. Waite, appointed by and representing the Free Coinage Miners Union No. 19, W. F. M., its members and other miners of said district, on the one part, and J. J. Hagerman and David H. Moffatt for themselves as mine owners and employers of mining labor in said district, on the other part, as follows.

"1. That eight hours actual work shall constitute 'a day', divided as follows: Four hours of continuous work, then 20 minutes for lunch, then four hours of continuous work; for which said eight hours of labor there shall be paid three dollars ($3.00).

"2. In the employment of men there sha'l be no discrimination against union men or against non-union men.[5]

"3. The undersigned, J. J. Hagerman and D. H. Moffatt, earnestly urge upon other mine owners and employers of mining labor, in said Cripple Creek District, to accede to and act upon the foregoing agreement.

"Signed,

"DAVIS H. WAITE,
"J. J. HAGERMAN,
"DAVID H. MOFFAT."

---

the Rio Grande Ry., and got nearly 100 miles on their way. The governor, hearing of the movement, sent a telegram to them at Montrose commanding that they return home, and promising to give the striking men protection. The command was obeyed.

[4]Copy given to newspapers and published by all papers of Denver and Colorado Springs, June 5, 1894.

[5] Men who had been prominent in the strike were never able to obtain work in the mines again, and several of the mines absolutely refu ed to employ union men.

Militia vs. Deputies

Next day the entire state militia was called out under orders to go with all possible dispatch to the Cripple Creek District and preserve the peace.[6] More specific directions were given to General Brooks, in command, by the governor. He was to place his force between the miners and deputies, and prevent a clash between them by every possible means. The disbandment of the deputy army was to be secured at the earliest possible moment. Protection was to be afforded to the sheriff and to the mine owners, but armed bodies of deputies were to be prevented from making arrests, or from occupying the mines.[7]

At Colorado Springs and Cripple Creek it was felt that the trouble was over, and there was great rejoicing. The mine owners were rapidly signifying their intention of accepting the agreement, and the miners had sent out word that they would stand by the governor's action, and that they would not resist the militia. But the deputies had yet to be reckoned with. On the night of the 6th they broke camp, and cutting all telegraph and telephone lines, and imprisoning all newspaper reporters, they advanced toward Bull Hill. Morning found them camped in Beaver Park, about three miles from Altman, and in full view of the miners' camp. A small skirmish took place just after day-break. Some of the deputies' horses strayed beyond the picket line, and a squad was sent out to bring them in. The

---

6 "* * * And whereas the riot or insurrection now existing in Cripple Creek has been and now is beyond the power of the civil authorities to control, the lives and property of citizens of said county are in jeopardy, and application has been made by the sheriff of said county for military aid:

"Now, therefore, I, Davis H. Waite, governor of Colorado and commander in chief of the Colorado National Guard and the militia of the State, do call upon all organized companies of the Colorado National Guard to be and appear in the said county of El Paso, under the orders of Brigadier General Brooks, to restore peace and order in said Cripple Creek mining district, El Paso County, Colorado. All persons whomsoever in said county of El Paso unlawfully engaged in strife are warned to preserve the peace, and any unlawfully in possession of real property to yield the possession thereof to the rightful owners, and to cease any and all acts tending to promote civil war, to the end that the laws may resume their sway and the rights of property be determined by the courts.

"Davis H. Waite,
"Governor of Colorado."

7 *Biennial Report of Adjutant General*, p. 48.

men ran into the picket line of the miners and a lively exchange of shots took place, in which no one was injured.

The militia arrived early in the afternoon, and following their orders, went into camp between the deputies and miners. Later in the afternoon Generals Brooks and Tarsney held a conference with the leaders of the deputies, in which a great deal of friction was created by the question whether the militia or the county officials were higher in authority. Both sides claimed the right to command and be assisted, and there was cause for much anxiety as to what would happen on the morrow.

Early next morning the deputy camp was in motion. The men were formed into line, divided into several detachments, and started off in as many directions. General Brooks kept watch of the movement, and when it became evident from their line of march that the detachments were all headed for Bull Hill, he sent for Sheriff Bowers, inquiring what he intended to do.

From the miners' camp on the hill the movements were being watched closely. As the long lines of men swung out in the valley below and took up their march forward, the alarm whistle at the Victor mine gave forth its warning blasts, and in a few moments the hillsides were dotted with men hurrying in to headquarters. Fifteen minutes saw the ranks complete, and "General" Johnson issuing orders that were to give the deputies a warm reception.

The miners had no cannon, as has been generally supposed, but they had a weapon even more deadly at close range in the shape of a huge bow-gun. This weapon was a home-made affair, and could throw to the foot of the hill. Its missiles were beer bottles filled with dynamite. It would work terrible execution when the deputies attempted the steep climb for the summit. Different points on the hill were mined, and connected with electric wires to explode at the pressing of a button. Every man was well armed, and with a belt or pocket full of cartridges. In the upper left vest pocket of each were five dynamite cartridges the size of pencils. These were fitted with percussion caps and were to be thrown at close quarters as the deputies came up the steep incline. Every advantage was taken of the

natural strength of the place in distributing the men. Altogether Bull Hill was an extremely hazardous place to attack.

In the valley below General Brooks had not waited for an answer from his message to the sheriff. The buglers called the troops to arms, and having formed quickly they went off at double quick after the ranks of the deputies. General Brooks rode rapidly on ahead. Coming up with the sheriff a quick dispute ensued. The general inquired what was the meaning of this movement. Sheriff Bowers replied that he was sending squads of men to guard the roads leading from Bull Hill to prevent the escape of men for whom he had warrants, and that he was going on the hill with another squad to make arrests.[8] General Brooks replied that he was under orders to prevent armed bodies of deputies from attempting to make arrests, and that they must return to their camp. The sheriff insisted that he should proceed. General Brooks asserted that he must carry out his orders, and would be compelled to fire upon the deputies unless they ceased their march immediately. Sheriff Bowers held a conference with some of his men, and seeing that the general was determined, gave orders for the deputies to return to their camp.

The militia continued on their march, and entered Altman shortly after noon. Upon seeing the deputies turn back, the miners had dispersed again, and following their repeated statements to that effect received the militia without any show of resistance. That night the militia occupied the miners' camp.

Governor Waite had all along maintained that the deputy army was illegally assembled, and General Brooks had been ordered to secure its disbandment. Even with Bull Hill in the hands of the militia, and the miners' army dispersed, the deputies refused to disband. Under the leadership of Deputy Bob Mullins they marched next morning to Cripple Creek, and passing through the city arrested everybody who in any way met with their disapproval. Then they took up the line of march to the Independence mine, and went into camp around

[8]The Adjutatnt General's *Biennial Report* says that Sheriff Bowers pleaded that he could not control the men.

it. General Brooks met the deputies on the way to the Independence, and again demanded that they disperse, but was met with a blunt refusal.

General Brooks had been in constant communication with the governor all day. In the morning he telegraphed that the sheriff had reported the deputies to be beyond his control. Later in the day he sent the following telegram: "Situation critical. Sheriff persists in quartering his entire force at Independence mine. Says he does so at request of owner. There is in my judgment but one solution—martial law. General Tarsney indorses this opinion. (Signed) Brooks." To this the governor replied that his orders must be carried out at all hazards. "If the deputies resist your authority I will call out the unorganized militia to suppress their insurrection."[9] That meant that every able-bodied man between eighteen and forty-five might be called out, and that the controversy would assume proportions which would make the miners' affair seem small indeed.[10]

---

[9] *Colorado State Papers.*

Biennial Report of the Adjutant General, 1893 and 1894, p. 50.

Also cf. Office of Adjutant General, impression copies order to militia, May, 1894.

[10] The telegrams of the 8th and 9th are here given in full.

Davis H. Waite, Governor.

The deputies moved from the right and left of our position this morning, contrary to agreement not to do so, and advanced on the miners. It becoming evident to General Brooks that they intended an attack upon the miners, the entire column was put in motion, and the bodies of deputies overtaken at a point 1 mile from Altman. Under orders of General Brooks they returned to their camp.

I most respectfully urge, in view of our close proximity to the miners, that we be instructed to receive their surrender, which I am credibly informed that all are anxious to make. They sent a committee to confer with me last night, but the committee were arrested by the deputies and I did not meet them. Answer.

T. J. Tarsney,
Adjutant General.

Adjutant General, T. J. Tarsney.

Accept surrender of miners. Do not disarm them, but protect them with all your power. Make a cordon and keep armed deputies out. Advise sheriff and make no arrests. Use no force to compel any arrested man to go with the sheriff. Let that be voluntary. If the armed deputies resist your authority I will call out the unorganized militia to suppress their insurrection.

Davis H. Waite,
Governor.

Davis H. Waite, Governor.

Deputies were sent out in squads this morning to arrest parties for whom I



MILITARY PRISONERS UNDER HEAVY GUARD.

Fortunately, before any further action had been taken, a conference was held at Altman between mine owners, militia officers, and county officials. There were present Sheriff Bowers and County Commissioner Boynton, W. S. Stratton and Chas. Steele of the Independence, Mr. Keith of the Victor, Wm. Lennox, L. P. Airhart, Generals Brooks and Tarsney, and Colonel Hagel. The following agreement was reached.[11]

1. Deputies to be withdrawn.
2. The mines to be put in peaceable possession of the owners.
3. Military protection to be afforded to mines and miners.
4. Troops to remain for 30 days at least, and longer if necessary in the opinion of the commanding general.
5. Miners to deliver up all arms in their possession, also personal property belonging to other persons or taken from the mines.
6. Troops to be stationed at Cripple Creek, Victor, and Anaconda.
7. Persons for whom the sheriff has or may have warrants to be arrested and turned over to the sheriff at Colorado Springs.

This agreement was carried out and was the final settlement of the difficulty.

---

have warrants and who are trying to leave the district. While these deputies were in the discharge of their duties they were intercepted by General Brooks, with the State Militia, and ordered to return to camp. I understand the militia are here to aid me in serving process and placing the mine owners in possession of their property. If this is not the case and they are sent here to prevent me from doing my duty and hindering the law, then I most respectfully request their immediate recall. M. F. Bowers,
Sheriff.

M. F. Bowers, Sheriff.

It is ill advised to send out squads to arrest miners at this time. General Brooks is in the field to compel peace. He is ordered to prevent any arrests or attacks by armed deputies. The militia are under the orders of the commander in chief, and not of the sheriff. If the deputies resist the order of General Brooks to suppress insurrection they resist the lawful power of the state.
Davis H. Waite,
Governor and Commander in Chief.

Davis H. Waite, Governor.

Sheriff Bowers admits his inability to control his deputies, and some of his officers agreed with him. This was the reason of his failure to keep faith with General Brooks. T. J. Tarsney,
Adjutant General.

General T. J. Tarsney.

If, as you say, Sheriff Bowers admits that the deputies refuse to obey his orders and are acting in defiance thereof, they are not a lawful body, are only armed marauders, and you must treat them as such. Order them to lay down their arms and disperse. If they refuse to obey and you have not force enough to suppress this new insurrection, notify me and I will call out the unorganized militia to enforce the order. Davis H. Waite,
Governor.

[11] *Biennial Report of Adjutant General*, 1893–4, p. 60.

The Restoration of Order

Next day the deputies returned in a body to Colorado Springs and were there disbanded. In the town hall at Altman, Sheriff Bowers read the names of several hundred men for whom warrants had been issued, and they were asked to present themselves for arrest. A great many did so. Many, however, had left the district to avoid arrest, and were never located by the authorities. The militia remained in camp according to agreement, until the last of July, when they were withdrawn. The mines opened slowly at first, the owners hardly feeling sure of the ground, but as the men showed themselves willing to work, confidence was restored, and operations were taken up again in earnest.

There remained for a long time a certain amount of hostility on both sides. Among the extremely radical, feeling still ran high, and vented itself in various acts of violence. A number of citizens of Colorado Springs found it wise to keep guards at their dwellings. In the same city a scheme was made to tar and feather a number of men who were supposed to have sympathized with the strikers during the trouble. The plan fortunately became known, and steps were promptly taken to frustrate it. A more successful attempt was made later upon Adjutant General Tarsney. General Tarsney had been prominent in the friction between the state troops and deputies, and had become greatly hated by the latter. He was taken from the Alamo Hotel one night, driven several miles north of the city, and there tarred and feathered, and left wandering around in the night to find his way back to civilization as best he could. An attempt was made to blow up the home of Sheriff Bowers one night with a nitroglycerine bomb. The fuse was defective and went out; otherwise the house would have been completely wrecked, and the inmates, who were sleeping almost directly above the bomb, would certainly have been killed.

Cripple Creek was in a turbulent condition for some time. The criminal elements that had come into the city during the strike were not easy to get rid of. Sheriff Bowers spent most of his time in the neighborhood, doing his utmost to restore good

order. He arrested over one hundred fifty men, and kept the county jail full to overflowing all the following year. Various attempts were made on his life. One night two men were shot on the road from Victor to Cripple Creek by a band who were after the sheriff, and who mistook the men for the sheriff and his deputy.

It was nearly a year before the men charged with committing overt acts during the strike came to trial. In March, 1895, D. M. McNamara was convicted on the charge of assault with intent to commit robbery, in holding up the stage coach of John Simmons, and taking his guns away from him. He was sentenced to two and one-half years' imprisonment, but the case was appealed, and the supreme court reversed the decision and set him free. Jackson Rhines received a jail sentence on the charge of kidnapping. Robert Dunn was convicted of assault with intent to kill, but broke jail before sentence was passed upon him, and was never retaken. Robert Lyons and Nicholas Tully were sentenced to terms of six and eight years respectively, on the charge of blowing up the Strong mine. They were pardoned by Governor McIntyre, who succeeded Governor Waite, long before the expiration of their sentences. Some three hundred other informations or indictments were filed, but were dismissed later on, and no other men were brought to trial. Out of all the men arrested not one served a full sentence.[12]

---

[12] vide *Records of District Court*, Colorado Springs, March to May, 1895.
Cases, People *vs.* D. M. McNamara.
People *vs.* Jackson Rhines.
People *vs.* Robert Dunn.
People *vs.* Robert Lyons.
People *vs.* Nicholas Tully.

CHAPTER IV

DISCUSSIONS

Peculiarities of the Strike

In the Cripple Creek strike one finds some marked peculiarities, phenomena in the field of strikes. Part of the union men worked all through the difficulty. Wherever a mine was found that would continue working, or would start to work, on the eight-hour schedule, or wherever a compromise could be reached as in the case of the Isabella, no attempt whatever was made to shut it down; the men continued to work as though nothing whatever had happened. This is in marked distinction from most strikes, where every union man is called out whether he has a grievance or not, and as many other allied occupations as possible affected by sympathetic strikes.

By its action in allowing the men to work the union gained in several ways. It kept a considerable amount of money coming into the pockets of union men, a goodly portion of which went to the support of the strike. It kept constantly before the eyes of the public, the fact that the men were not trying to introduce a new and unheard-of system, but one which was being successfully applied in a number of mines. It was a constant reminder that the men were not making exhorbitant demands to which it was impossible to accede, since mines of average yield were successfully operating under all the conditions which they asked. It is a question well worthy the careful consideration of organized labor everywhere, whether a similar action would not produce similar beneficial results in many a labor difficulty.

The exchange of prisoners near Bull Hill probably has no parallel in the history of strikes. When the five captured miners

were exchanged for the three imprisoned officers with all the formality of war, the Altman union received recognition such as no other union has received before or since. Such recognition of an organization, and of a state of belligerency might have involved some interesting questions had the trouble gone further and Federal authority been invoked.

Another peculiarity of the strike was that state authority was used in such a way as materially to benefit the strikers. In the history of strikes the state has intervened nearly always only after a demand for protection, by the owners or operators, and while perhaps intending no such result, its authority has been so directed as to curtail the activities of the strikers, and to lessen greatly their chances for success. The results of this exception are interesting.

Governor Waite was a Populist, elected to his position on a Populist Labor ticket, and his ambition was to be known as the great friend of the laboring man. The strikers were sure of his hearty support from the first, and the county authorities were hampered by uncertainty as to whether his action would be to aid, or to oppose their efforts. All through the trouble his assertion was constant that no act of his should be hostile to the miners, and when at the very crisis he asserted that the deputy army was illegally assembled and should be disbanded, the effect was very great.[1] The miners were wise enough to see their opportunity, and never in the slightest way to resist the state authorities, and hence they reaped the full benefit of the governor's friendship. It is doubtful whether without the moral and active support of state authority, exerted as it was at critical moments, the miners could have won their strike.

The Position of the Mine Owners

We saw at the beginning that the Cripple Creek strike was largely the result of a general financial depression, and of irregularity in the employment of labor in a newly-opened min-

[1] *Proclamation* of Governor Waite, May 26, 1894.

ing camp, and that the move which opened the strike was taken by the mine owners.

The owners felt that under existing conditions they were entitled to a longer working day for the $3.00 wage which they paid, or a smaller wage for the shorter day. They supported their position by pointing to the stringency of the times, the scarcity of money, and the surplus of labor. The logic of business alone, they said, made it impossible to maintain wages anywhere on a prosperous-times basis. They added that they were putting more money into the ground most of the time than they were taking out, few of the mines were paying dividends, and they could not afford to pay such high wages. The mines in other districts worked much longer hours. In Cripple Creek, with freedom from water, mild climate, and pure air, conditions for mining were more favorable than anywhere else, and certainly labor should be no more expensive than elsewhere.[2]

Feeling that these conditions entirely justified their stand, they refused to accept the various compromises proposed at the opening of the strike, and took no action whatever on the offer of the miners to allow the mines to continue working as they had been doing. Nor did they feel that they could follow Mr. Stratton's example when he opened the Independence on a compromise. They watched with disgust as the miners thwarted attempt after attempt to open the mines, and at last in exasperation made the proposition and demand on the county authorities which resulted in the deputy army.

Later, when the trouble had become so serious that it looked as though hundreds of men would be killed, and a terrible disaster fall upon the county, the more conservative owners began to feel that a small difference in wages was too slight a thing over which to have such a bitter fight. Especially J. J. Hagerman and David H. Moffatt felt that everything possible ought to be conceded to secure a compromise, and ward off such a calamity, and it was largely through the efforts of these men that the final settlement was effected.

---

[2] Statement by Mr. J. J. Hagerman.

The Position of the Miners

The miners naturally approached the question from a point of view differing from that of the mine owners. To them the questions of hours and wages were vital points of livelihood. They declared that at the altitude of the Cripple Creek District, varying from nine thousand to eleven thousand feet, men could not healthfully work more than eight hours a day. The strain of such an altitude was so great that many people could not live there at all, to say nothing of working at heavy labor every day for eight hours. The trying conditions due to altitude, they said, were augmented by the nature of mining, in which men had to work with clothing dampened by water, and breathe foul air and powder smoke. Nor, they insisted, could they live decently on less than a $3.00 wage. Provisions and rents were very high. By the time they had paid $15.00 or $20.00 rent for a miserable little house, bought firewood at $4.50 a cord, water at 5 cents a bucket, and other things in proportion, there was not much left for luxuries. Cripple Creek was a gold camp whose product had not been affected by the general fall in prices, and it was arbitrary to cut their wages just because thousands of other men were out of work.[3]

The miners at the beginning wished if possible to make a compromise, and made all the advances along that line. Failing, they settled down to a hard fight, with the feeling that they were justified in going to extremes to keep the mines from opening. The agreement with the Isabella showed them still willing to compromise. Then came the entrance of the deputy army. The rumors in Cripple Creek concerning the deputies were as misleading as the rumors in Colorado Springs concerning the miners. The miners prepared to resist what they understood to be an attack intended to drive them from the county, and emboldened by the sympathy of the governor and his proclamation, held the deputies at bay. Encouraged by their success, and the attitude of the governor, and the fact that the proposals were now coming from the mine owners, they made

[3] Statement by Mr. John Calderwood.

exhorbitant demands in the final attempts at arbitration. Fortunately, in making the governor their representative with power of attorney, they left the way open for the final settlement.

The Position of the Governor

The attitude taken by Governor Waite was in brief that he would do nothing that would aid either the miners or mine owners to win the fight. The militia, he said, should not be called out to win the strike, but simply to preserve the general peace, and should not be used to coerce the miners in any sense of the word.[4]

In the deputy movement he saw an arrangement, ostensibly by the county authorities, but in reality by the mine owners, meant to force the miners to give up the struggle. This movement, as he saw it, originated with the mine owners, and was supported by their contributions, and the sheriff was simply a puppet in their hands.

Moreover, in his estimation the assembly of so large a body of deputies was illegal.[5] He immediately declared that the sheriff had exceeded his authority, first, in that the right to appoint deputies did not mean the power to form an army, and second, in that he was breaking a state law in appointing deputies from outside El Paso County. The swearing in of men in bodies of several hundred; their equipment with whole stands of newly purchased arms; and their organization into a military body, constituted the formation of an army, and was an usurpation of the power of the governor. In appointing deputies from Denver, Leadville, and other points outside El Paso County the sheriff was disregarding the laws of the state, which expressly directed that a sheriff call aid only from his own county.[6] The governor therefore declared the formation of the

[4] From statement by Hon. J. Warner Mills, legal adviser of Governor Waite at the time of the strike.

[5] cf. Last message of Governor Waite to Legislature Jan. 10, 1895.

[6] Mills' *Annotated Statutes of Colorado*, Vol. I, Sec. 856. It shall be the duty of the sheriff and undersheriff and deputies to keep and preserve the peace of



Gatling Gun Trained on Midland Terminal Depot.

deputy army illegal, and demanded that it disperse. When the deputies made their forward move he threw the militia between them and the miners, with orders to prevent a conflict at all hazards. And upon the repeated refusal of the deputies to disband, he prepared to call out the whole state reserve.

The Baleful Influence of Politics

The workings of political intrigue are always hard to trace accurately and it is impossible to say just what part politics played in the Cripple Creek strike. There can be no doubt, however, that both parties sought to make political capital out of the strike, and by their machinations greatly impeded its settlement.

The interest of Governor Waite in the miners was undoubtedly a political one, the desire to secure sufficient support in the western part of the county to overcome the Republican strength in the eastern part, and so to bring El Paso into the ranks of the Populists. He was willing to go to great lengths to become known as the friend of the working man, and his influence was such as to constantly encourage the miners in their resistance of the county authorities. There is good reason to believe even that it was a telegram from the governor that caused the miners to make the demands that thwarted the first attempt at arbitration. This in order that he might have the credit and the influence upon the miners, of effecting the settlement himself.

The Republicans were just as active on the other side. There has been a quite general opinion that the deputy movement had as its ultimate aim the driving from the county of a large number of the men who were supporting Populism, and endangering the power of the Republicans in the county.[7] There is

---

their respective counties, and to quiet and suppress all riots, affrays and unlawful assemblages and insurrection, for which purpose, and for the service of process in civil and criminal cases, and in apprehending or securing any person for felony or breach of the peace, they and every coroner and every constable may call to their aid any person or persons of their county as they may deem necessary.

[7] Since the strike of 1903 this opinion does not seem so fanciful, as it did at the time of writing.

strong evidence that the county officers used their authority following the strike to keep their party in power. The Bull Hill men were tried under conditions which made it almost impossible for them to escape even if innocent. Two prominent citizens of Colorado Springs made affidavits to having heard the assistant district attorney outline a scheme which was to secure the conviction of every man tried.[8] Of the four men sentenced for crimes committed during the trouble, one broke jail, one was set free by the Supreme Court, and the other two were pardoned by Governor McIntyre.[9] Only five cases were tried out of three hundred informations and indictments. The failure to prosecute the other two hundred ninety-five cases is generally supposed to have come about as follows: the indictments were held as scourges over the heads of the men. They were promised that if they worked heartily for the Republican ticket at the next election their names would be dropped, otherwise they would be tried, and would be sure to be convicted. Needless to say the men worked. The election went as desired, and the indictments were dropped. Thus did both parties intrigue for power, intensifying the difficulty, and greatly hindering its settlement.

---

[8] vide *Petition for Change of Venue.* Case People *vs.* McNamara, District Court, April, 1895.

[9] Governor McIntyre was the Republican governor who succeeded Governor Waite. He would not pardon the men through partisan bias in their favor.

PART II

THE STRIKE OF 1903–1904

CHAPTER I

THE INTERVENING PERIOD

The history of the Cripple Creek District from 1894 to 1903 is one of steady, healthy growth. There were periods of inflation, and of characteristic boom excitement, followed by the usual periods of depression. The values of the mining stocks fluctuated violently from a number of causes, and the failures of mining brokers were frequent. There was the constant question as to the permanence of the ore deposits, and the prophesy of the pessimists that Cripple Creek would prove merely a surface camp. But through it all the district grew in wealth and population; the mines increased their output; and general prosperity was the portion of those who lived within the mining area. The district in these years lost many of its frontier characteristics, and took upon itself the features of the modern productive center.

The increase in the number of mines and prospects was phenomenal. Every hill for miles came to be lined with roads, dotted with dumps and shaft houses, and thickly sprinkled with prospect holes. The vast majority of these small mines and prospects were finally deserted, but an occasional one became a paying property, and this was sufficient to keep a number of men constantly engaged in developmental work. The successful mines were equipped with the best modern mining machinery, and with various devices for the quick extraction and handling of ore. Shafts were sunk to a depth of nearly 1,500 feet, and some single mines developed miles of tunnelings.[1]

Three lines of railroad now connect the cities and principal towns of the district with the outside world, and their branches

[1] The Portland Mine has 3 shafts and 25 miles of tunnelings. The Independence has a 1400 foot shaft.

running to the various mines form a close network over miles of territory.[2] So complete in fact are these connections that it is often possible to count a dozen lines of track upon a single hillside. Local trains run over the roads at short intervals, and two electric lines give frequent service to all points in the mining area. It would be difficult to find an industrial section with a more thorough or complete system of transportation connections.

Numerous small towns have sprung up throughout the district, and the general population has increased to about 50,000. The cities of Cripple Creek and Victor have both had a considerable growth, the former having a present population of about 12,000, and the latter 7,000. The business sections of both cities were razed to the ground by destructive fires in 1896 and 1899. The hastily constructed buildings of the early boom days were thus destroyed, and in their places have risen substantial modern structures of brick and stone.

In other respects the two cities have kept much of their frontier appearance. There is scarce a level piece of ground in the country, and except in the central portions of the towns, the houses straggle over the hills with hardly a semblance of order. The buildings are for the most part small, without porches or decorations, and weathered to an appearance often almost of unkemptness. Not a tree nor a lawn is to be found.[3] Of parks there are none. The casual visitor catching his first glimpse as his train swings round the mountain-side, is likely to receive a distinct shock, and to carry away later an impression of roughness, uncouthness, and lack of the finer activities. But the cost of building material from the long shipment across the mountains explains the small size of the houses; the arid climate and hot sun takes almost instantaneous action on paint; and the soil and altitude make trees and lawns an impossibility. The rough appearance of the district is not an index of the character of its

[2] The Florence and Cripple Creek Railroad. (Narrow Guage.) The Midland Terminal Railway. The Colorado Springs and Cripple Creek District Railway.

[3] This statement is not absolutely truthful. Two or three irrepressible citizens have succeeded with infinite care and attention in growing lawns of a few square feet, and a very few quaking aspen trees have been nursed into some show of thriving, but these facts only emphasize the general barrenness.

people. Within the unprepossessing exterior are homes of splendid taste, fine in their furnishings, conveniences, and life. Men of education and refinement have come to the Cripple Creek District, and their influence is seen in city water works, electric lights, good schools, hospitals, libraries, and churches. The district has kept much of its frontier aspect but lost much of its frontier character.

The rough externals cannot however but have a considerable selective effect. The lover of the easy, sheltered life will not gravitate to such conditions. It is the man to whom rough surroundings are agreeable or of secondary importance who will be attracted, and this means in many respects frontiersmen—the rough, hardy, fearless, independent, restraint-hating type of manhood. Thus the anomaly in a very recent frontier district, of a highly developed industrial center, which has kept most of its frontier aspects, and much of its frontier life.

The existence of the Cripple Creek District depends almost entirely upon its mining industry, and its prosperity rests upon the same source.[4] No agriculture is possible, and scarcely any grazing; the district depends entirely upon outside shipments for its food supply. The same is true of manufacturing; none of the conditions for successful manufacture exist. All kinds of products, including building material, have to be shipped in, and the ores are shipped out of the district almost entirely for treatment. Business is local in its nature, arising from the economic needs of the district, and limited to the effective demand for consumption within the district. We have to consider then, not a strike of the ordinary type, involving merely a small

[4] The mines of the district have produced gold values as follows:

1891	$200,000	1900	$22,500,000
1892	587,310	1901	24,986,990
1893	2,010,400	1902	24,508,311
1894	3,250,000	1903	17,630,107
1895	6,100,000	1904	21,414,080
1896	8,750,000	1905	22,307,952
1897	12,000,000		
1898	16,000,000	Total production to 1906	$203,245,150
1899	21,000,000		

The recorded dividends for 1905 were $4,032,740. The profits by lessees and close corporations for the same period are estimated at $1,000,000, making the net profits from the mining industry for 1905, about $5,000,000.

class, and disturbing economic conditions only generally, but one that throttled the whole basic industry, and disrupted the entire industrial and business life of the section in which it occurred. Here lies the explanation for much of the intensity and fierceness of the struggle, for the alignment of forces, and for the bitter class strife that dominated it.

The working force remained almost entirely American. The unwritten law of the metal mining camps of the West, which does not allow Italian laborers, was in force here. The high rate of wages permitted the employment of a higher class of labor than is usual in mining, and the boast was constantly reiterated that Cripple Creek had the best set of miners in the world.[5] The conditions of labor were also of the best. The mines were comparatively dry and well ventilated, the hours short, and machines provided to facilitate all operations. Good car service, and the modern improvements of the towns, added more than the comfort usual to the home life of a mining area.[6]

---

[5] The wage scale for an eight-hour day in force after 1894 was as follows:

	Per Day
Trammers, single-hand miners, firemen and ordinary laborers	$3.00
Timbermen, machine helpers, etc	3.50
Machine men	4.00
Engineers, foremen and shift bosses, $4.00 to	5.00

Graduates of many of the foremost universities of the country are to be found among the mine workers, and every year a number of the Colorado undergraduate students spend their summers in the Cripple Creek mines.

[6] The unions of the Western Federation of Miners in the district in 1903 were as follows:

Free Coinage Miners Union No. 19, Altman.
Anaconda Miners Union No. 21.
Victor Miners Union No. 32.
Cripple Creek Miners Union No. 40.
Independence Engineers Union No. 75.
Excelsior Engineers Union No. 80, Victor.
Cripple Creek Engineers Union No. 82.
Banner Mill & Smeltermens Union No. 106, Victor.

Special cars are run on the roads at the time the mine shifts change to take the men to and from their work. This enables the men to live in town while working at considerable distances in the outskirts of the district, and has had a considerable influence in centering so much of the life in Victor and Cripple Creek.

The Background for the Strike

In the interval from 1894 to 1903 there were no labor difficulties. The best of feeling prevailed between employer and employed, and a more prosperous, contented, industrial district would have been hard to find. Certain events took place, however, which had a most vital influence upon the second strike, and effected powerfully the course of events. These were the partitioning of El Paso County; the espousal of socialism by the Western Federation of Miners; and the growth of the unions in political power.

In 1893 El Paso County, with Colorado Springs as its county seat, included the Cripple Creek mining area. This was not satisfactory to the citizens of the area, and in 1899 they succeeded in securing a separate county government. The new county of Teller was formed, including the mining area, and some adjacent territory.[7] The result of the division was entirely to change the political situation relative to the strike. In 1893 the control of the county rested in Colorado Springs, and therefore as a political unit the county was not in sympathy with the mining towns. The difficulty developed between the county authorities and the miners, with the state exercising simply the balance of power.[8] In 1903 the mining cities had their own county. The same political forces that controlled the towns controlled the county, and the district presented a solid front which only state authority could oppose or control. In this condition, coupled with the control of the county and state by strongly opposed political forces, can be found much of the explanation of the free use of state power.

But the division of El Paso County had a still more important result in giving the unions the opportunity for a considerable political control. At the time the various towns of the district were formed the population was composed largely of miners,

[7] The county of Teller has had a most successful history. In 1901 it completed a substantial jail, in 1902 a county hospital, and in 1905 a splendid county court house and administration building. The expense was met without indebtedness, and in spite of the costliness of the turbulent times of 1903 and 1904 the county is still without a debt.

[8] See Part I, pp. 40, 45-48, 56.

and they naturally constituted the force that elected most of the local officers. The unions from their very inception followed a policy of political activity, and the strike of 1893 found the government of such newly formed towns as Altman entirely in their hands. With the formation of Teller County independent political action was decided upon, and a Miners' ticket was in the field at the next election. Defeated, the miners turned to ally themselves with the Democratic party. There was no formal action, but a quiet readjustment of forces that was even more effective. At every election the Democratic party triumphed; members of the Federation and friends of the Federation went into office, and it was generally conceded that no man who was unfriendly to the unions could hope for election.[9] By 1903 a large number of the local and county officers were members of the Western Federation of Miners, and nearly all were in entire sympathy with the unions.[10] This was especially true of the police officers, a large majority of whom were Federation men. The unions were thoroughly in power. Here is a striking example of the power of a unified minority working among the forces of a scattered majority. In it is the groundwork for the bitter con-

[9] The alignment of the political parties at the various elections was as follows:

1899. Democratic, Republican and Silver Republican, Populist and Co-operative (the union ticket).
1900. Democratic, Populist and Silver Republican, Republican.
1901. Democratic, Republican, Socialist.
1902. Democratic, Republican, Socialist, Populist.

The strength of the labor vote was shown in the election of 1903, after the opening of the strike, when the unions again ran separately, electing their candidate for assessor. The vote was:

	Assessor.	*Coroner.*
Independent Labor	2,227	(no candidate)
Republican	1,933	2,382
Democratic	1,655	2,980
Socialist	175	430

[10] The city of Victor can be taken as a fair example of the district as a whole. The miners' union members who held offices here were as follows:

Alderman J. Murphy.
Alderman James J. Tobin.
Alderman Hugh Healy.
Day Marshal M. J. O'Connell.
Night Marshal Mike Lamb.
Most of the policemen.
Jailer James Printy.
Fire Chief James Printy, Jr.
Street Commissioner Simon O'Rourke.

troversy between the county and the state, and the key to the explanation of many of the political features of the strike.

The Western Federation of Miners in 1902 announced a propoganda of socialism. President Boyce upon his retirement from office in that year made a speech strongly urging Socialism upon Federation members.

The conventions of 1902, 1903, 1904, and 1905 passed resolutions endorsing the tenets of Socialism, and recommending independent political action upon the part of labor organizations. The utterances of the official organ of the Federation, *The Miners Magazine,* are strongly Socialistic in their tone, as are many of the speeches of the union leaders. President Moyer in his formal annual report for 1903 said:

"After fully considering the conditions surrounding us at this time, I believe that the most important action which you can take during this convention will be to reaffirm the policy adopted by the tenth annual convention. Do this and you will have accomplished that which will redound to your credit and insure such prosperity for your organization as will not only commend you to those you represent, but to the great army of toilers throughout the entire world, who are anxiously awaiting the message that the Western Federation of Miners will not pause in the determined effort to bring about such a change in our social and economic conditions as will result in a complete revolution of the present system of industrial slavery. * * * *

"John Mitchell need not be surprised should his membership turn their faces to the West, seeking affiliation with organizations which have sent out their message to the world, that as labor produces all wealth, such wealth belongs to the producer thereof. That their mission is not to tighten the bonds which surround the toiler, but the emancipation of wage slavery and the equality of man. * * * * * * * * *

"I sincerely trust that you will leave nothing undone to educate the members of this organization, not only along the lines of trades unionism, but to a realization of their power to bring about a condition under which every individual who labors shall be entitled to that which his labor produces."[11]

[11] *Official Proceedings,* W. F. M. A., June, 1903, p. 22.

And again in 1905:

"How much longer are we going to acknowledge our ignorance? How much longer shall we permit our corporate and political masters to assume the privilege to do the thinking for the producing class? Knowing the power that we still possess through the ballot, if we shall continue to be wage and political slaves, struggling to better our condition through simple trades unionism, then we are entitled to no consideration, and the time is not far distant when, unless the working men and women of this country awaken to their strength and power and while they still have the right of franchise, destroy forever a system which makes millionaires and paupers, then they will be helpless indeed. * * * * *

"Supplication by the people of Russia at the feet of their Czar was met by the fire of musketry of his soldiers. Pleading of American labor at the throne of capitalism is answered with the injunction, the blacklist and the military bullpen. I appeal to you, fellow workers, to arouse yourselves and while you still have the opportunity, take control of the weapons which are being used to deprive you of your citizenship, and bear in mind that you have czars in this boasted land of the free that would be less merciful than he of Russia."[12]

Upon the title page of *The Miners Magazine* appears every month the slogan:

"Labor produces all wealth, wealth belongs to the producer thereof."

It should be said that the annual conventions refused to pass resolutions of extremely Socialistic nature, always simply endorsing the general tenets of Socialism; demanding further economic education, and advising the class-conscious use of the ballot to right "labor's wrongs."[13] But couple the extreme utter-

[12] *Ibid.*, 1905, pp. 23 and 24.

[13] The resolution of the June, 1905, convention was as follows:

"No. 113.

"To the Thirteenth Annual Convention of the Western Federation of Miners:

"We, your Committee on Resolutions, hereby submit the following resolution:

"Whereas, Economic evolution and the oppression of the capitalist class through its ownership of the means of production and exchange have forced on the workers the consciousness of the necessity of the abolition of craft divisions on the industrial field and their alignment as members of one general economic



Striking Miners at the Bull Pen, Guarded by Militia.

ances of the radicals, with the general misapprehension of Socialism as something essentially connected with revolution and anarchy, and the effect upon the extreme conservative party of the state, represented by Governor Peabody, himself a banker, can well be imagined. The party which stood for the gold standard when Bryan as the champion of silver swept the state, and which represented the large business and corporate interests of the commonwealth, would have little tolerance for such "heresies," and would lose no opportunity to root them out.

---

organization, based on the class struggle, as a more effective method of resisting the encroachment of the capitalist class; and,

"Whereas, We believe that action on the economic field alone will not solve the problem of industrial emancipation unless accompanied by class-conscious, independent political action at the ballot box, by which we can capture the powers of government and establish an administration of the working class instead of the present capitalist system of society; and,

"Whereas, As an intellectual revolution must first take place in the minds of the workers before they can intelligently take over and administer the industries and powers of government in the interests of their class; therefore, be it

"Resolved, That the Thirteenth Annual Convention of the Western Federation of Miners does hereby re-affirm and endorse the resolutions of the Tenth, Eleventh and Twelfth Annual Conventions, recommending independent working-class political action; and, be it further

"Resolved, That we recommend to all workers the study of economics, that it may lead to an intelligent conception of the class struggle, of their interests as the wealth-producing class of the world, and of the proper civic expression of these convictions at the ballot box, thus insuring a peaceful transition from the present capitalist mode of production and exchange, and its consequent degradation and misery, to the co-operative commonwealth."

Official Proceedings, Eleventh Annual Convention, W. F. M. A., 1905, pp. 343 and 344.

They refused to pass the following:

"No. 92.

"To the Officers and Delegates of the Thirteenth Annual Convention, Western Federation of Miners:

"I hereby submit the following resolution for your consideration:

"Whereas, The organization known as the Western Federation of Miners has in previous conventions declared themselves in favor of the Socialist Party, and in as much as this convention declared themselves in favor of industrial unionism, which is socialism with its working clothes on; therefore, be it

"Resolved, That the name of the organization be changed from the Western Federation of Miners to the Western Federation of Socialists, and as the Socialists at this convention claim that those who do not believe in their principles are a burden to the organization; therefore, be it

"Resolved, With all due respect to the members of the organization, that those local unions who do not believe in the socialistic principle be requested to withdraw from this organization." p. 304.

The Situation Immediately Preceding the Strike

The unions were for some time in a position of very great power which they were not careful to wield either with justice or consideration. The most extreme case of this condition was to be found in the courts. It became almost impossible to convict a union man of any offense. The judges conducted trials with absolute impartiality, and the public attorneys prosecuted with vigor, but juries could not be secured that would bring in verdicts of guilty. The defense of a union man might consist almost entirely in showing his union record, and man after man of whose guilt there was the strongest evidence went scot free.[14]

The movement to bring non-union men into the unions was always strong, and at times became violent. On August 6th, 1901 the following notice was posted at many of the mines:

"Take notice, that on and after September 15, 1901, anyone working in and around the mines, mills, or power plants of the Cripple Creek District, who cannot show a card of membership in good standing in some local union of the Western Federation of Miners, will be considered a scab and an enemy to us, himself, and the community at large, and will be treated as such. By order of the Cripple Creek Executive Board of the Western Federation of Miners.

"John Curry, *President.*"

This was followed on September 9th by the following:

"You have no doubt read and thought about our circular which was posted pretty thoroughly throughout this district about five weeks ago. This notice is issued for the purpose of reminding you that the 15th of September is near at hand; that the time of grace has about expired. You have had two pay days in which to decide whether you are for us or against us—there is no middle ground. While a majority of the men working in and around the mines, mills, and power plants have responded to the call, there are still some outside our ranks. To these this

[14] Judges of the district, men who have maintained a most praiseworthy attitude of fairness and impartiality through all the bitterness and party strife of the strike, recount case after case such as the above.

notice is addressed. If you are working in or around the mines, mills, or power plants of this district, THIS MEANS YOU. Now, don't throw this to one side and say, 'Only another bluff.' If you are 'from Missouri' come into some of the unions of the Western Federation of Miners and we'll 'show' you that we are trying to help you as well as ourselves, and as the 15th is only about six days away, 'YOU'LL HAVE TO HURRY.'

"The Cripple Creek District Executive Board of the Western Federation of Miners.

"By JOHN CURRY, *President.*"

Other notices of like tenor were posted at various times. There were threats and intimidations, and some actual violence. Occasionally men were frightened or driven from the district.[15] It must not be supposed, however, that the conditions were such that life in the camp became generally untenable for non-union men. In many of the mines union and non-union men worked side by side, and an occasional mine worked with non-union men entirely.

During this time also the unions gradually developed a dangerous condition of minority rule. The large conservative membership began to remain away from the business meetings, and to take small interest in the routine of the conduct of affairs. The radicals came into undue power, and moderate men were at times hissed from their feet when they attempted to speak. It came about that extremists were elected to office,[16] men entirely unfit for such positions, who did not at all represent the better class of the membership. By the constitution of the Federation a strike could be called only by a three-fourths vote of the membership of every union concerned.[17] Hardly had the difficulty

[15] In July, 1903, five Austrians arrived in Victor from Butte, Montana. They were taken for Italians, and were escorted from the city by several union miners under the plea of finding them work on the railroad. Arriving at Hollywood they were told to keep on going and not come back, and after they had gone some distance a volley of revolver shots was fired into the air.

[16] An extreme case is that of C. G. Kennison, President of the Cripple Creek Union, and an influential member of the District Council. Men who knew Kennison well, and whose sympathies were decidedly with the unions, speak of him as "a rabid, crazy fool, devoid of understanding and common sense."

[17] Article 5. Section 1. It shall be unlawful for any union to enter upon a strike unless ordered by three-fourths of its resident members in good standing

loomed upon the horizon however, when the unions voted the power entirely into the hands of the District Council, a general committee of thirteen composed mostly of officers of the local unions.[18] The meetings which took this action were not largely attended. Many of the men did not know that they had lost the referendum, and more of them regretted it when it was too late.

* * * * *

Thus there came the formation of a Little Mining Monarchy, shut off from the rest of the world by a high mountain range, strongly differentiated by its great altitude and arid climate, without agriculture or manufactures, its industrial life centered in mining: with its own separate political organization, the power in the hands of the miners, the unions controlled by a minority, the strike power in the hands of a clique. The powder train lies ready for the spark.

---

voting. Such questions shall be decided by a secret ballot at a special meeting called for the purpose, after having received the approval of the executive board of the Western Federation of Miners. * * *

[18] This was of course unconstitutional, and had they seen that fact the miners might later have made use of it.

CHAPTER II

THE COLORADO CITY STRIKE

Smelters and reduction plants are located in Colorado at various centers of population throughout the state. The great bulk of the Cripple Creek ores leave the district to go to these places for reduction. Four plants which handle a considerable part of the shipments are located at Colorado City,—the Telluride Mill, the Portland Mill which handles only the ores of the Portland mine, and the Standard and Colorado Mills, both owned by the Colorado Reduction and Refining Company.[1]

The Western Federation of Miners was organized with the intention of including all trades closely allied to the mining industry, and in that idea included mill and smeltermen. No attempt was made to organize the Colorado mills however until 1902, when a general movement was inaugurated to form unions in all the smelters of the state. The movement was unsuccessful except at Colorado City, where Mill and Smeltermens' Union No. 125 was formed in the month of August.[2]

At Colorado City the union was met from the start by the opposition of the mill managers. It was claimed by the union, and later practically admitted, that men were discharged simply for joining the union, and that as fast as their names became known they were being dropped.[3] A. K. Crane, who had become rather influential in the union, was accused of acting the spy, and reporting the names of new members to the company. He was expelled from the union, and later compelled to leave the city. Becoming thoroughly angered, the

[1] The Standard and Colorado Mills are built closely adjoining and are run under one management. It is necessary in various places to speak of them separately, but their close connection should be kept in mind.

[2] Organized Aug. 12, 1902, by Member of the Executive Board, Copeley. *Official Proceedings*, 1903, p. 26.

[3] *Official Proceedings*, W. F. M. A., 1903, p. 116. Report of D. C. Copeley.

union determined to make a formal protest against the discrimination, and to back it up if necessary by a strike.[4] The opportunity was also to be taken to demand the wage scale in force in the smelters of the mountain towns. This would mean an increase in the minimum wage from $1.80 to $2.25, and slight increases in the pay of men earning between $2.00 and $3.00 per day. The men earning $3.00 and more would not be affected. A protest was also to be made against the deduction from wages of $1.50 per month to cover insurance and doctor's fees.

The committee made its call at the offices of the Standard and Colorado plants on February 14th. Manager MacNeil asked if any member of the committee was in the employ of the Colorado Reduction and Refining Company, and upon the answer being negative refused to meet the committee, or receive any kind of a statement from it. The committee returned to the union headquarters, and a strike was called at the Standard Mill. Two weeks later written demands were presented to the managers of the Portland and Telluride Mills for an increased schedule of wages. The demand was refused, and strikes were called in these plants also.

The opposition of the management had been of sufficient weight to prevent the union from becoming strong in the plants of the Colorado Reduction and Refining Company. Of the 212 men employed at the Standard mill only 46 were union men at the call of the strike. Thirty-six non-union men went out with them, making the total number on strike about 80. Some of the non-union men informed the management that they left their positions through fear of violence, threats of which had been made to them. The Colorado Mill had shut down on February 1st on account of lack of ore, and was still idle on February 14th. The strike accordingly did not affect it, and from its idle ranks the Standard Mill was able to draw workmen to fill some of the vacant places.

[4] The eight-hour question was not an element in the strike at Colorado City. The working day in the Colorado City Plants had for several years been eight hours, with the exception only of the sampling departments, where the day was ten hours. Nor was the formation of the union here a part of the general movement inaugurated by the Western Federation of Miners to force the eight-hour day which they had failed to secure by legislation. The Colorado City Union No.

At the Portland and Telluride Mills the organization had been more thorough. The Portland succeeded in keeping enough men to run, however, and continued with a greatly reduced force. The Telluride made no attempt to continue, but utilized the temporary shutdown to carry on some constructive and repair work.

Sheriff Gilbert of El Paso County swore in deputies to the final number of 65 to protect the property of the mills. No one was allowed to enter any of them without a written permit from the sheriff or the mill manager. Manager MacNeill himself received a deputy's commission. For a few days until the county could arrange for it, the deputies were paid by the mill managers, and a number of them continued to be so paid. The strikers established a complete line of pickets around each of the mills. Tents and other paraphernalia of camping were provided, and day or night no one entered the mills without having been seen.

A workman's picket never partakes of the nature of a parlor game, nor are the men who can be picked up at short notice to become deputy sheriffs likely to be of a class especially fitted to shine in polite society. There was constant friction between the pickets and deputies; several cases of disorder occurred; and there were charges of brutality on the part of the deputies toward the pickets, and charges of violence on the part of the pickets toward non-union workmen, both of which had more or less foundation in fact.

Manager MacNeill was dissatisfied with the insufficient protection and control of the situation afforded him by the presence of the deputies, and desired state troops to enable him to curb more effectively the activities of the strikers. He accordingly made a demand upon Governor Peabody for troops, but was refused. Mr. MacNeill was able, however, to bring the influence of certain powerful forces in the state to bear upon the governor, and having done so, he proceeded to Denver on March 3rd in his capacity as deputy sheriff, armed with a formal declaration of the existence of a mob from the sheriff of

125 was formed in July, 1902, and the legislature which failed to pass the law met in January, 1903, and was in session during the first strike at Colorado City.

the county.[5] As the result of the conference several of the Denver militia companies were ordered to Colorado City.[6]

There was no apparent necessity for the presence of troops at Colorado City at this time. A mob could not be said to exist in any ordinary sense of the term. Colorado City was quiet except for occasional street brawls, which are common enough there at any time. No destruction of property had occurred, and 65 deputies would seem an ample number to furnish protection for 4 mills. The mayor of the city, the chief

---

[5] Sheriff Gilbert's communication was as follows:

"I hand you herewith a communication from the Portland Gold Mining Company, operating a reduction plant in Colorado City, and from the United States Reduction and Refining Company, from which I have received requests for protection. I have received like requests from the Telluride Reduction Company. It has been brought to my attention that men have been severely beaten, and there is grave danger of destruction of property. I accordingly notify you of the existence of a mob, and armed bodies of men are patrolling this territory, from which there is danger of commission of felony."

For the testimony of the sheriff later before a special commission, see *Official Proceedings*, W. F. M. A., pp. 155–159.

Q. "Well, you have testified that you commanded no set of men to disperse. You have testified that you had no warrant for any of these men or that they resisted arrest, and yet you went to the governor and told him that you could not control the situation here?" A. "I went to the governor and told him that I was—it either meant to have men killed there controlling the situation or that we must get men enough here to handle the situation without killing anybody." From testimony before Advisory Board.

[6] "Denver, Colorado, March 3, 1903.

"Executive Order:

"It being made to appear to me by the sheriff of El Paso county and other good and reputable citizens of the town of Colorado City, and of that vicinity in said county, that there is a tumult threatened, and that a body of men acting together, by force with attempt to commit felonies, and to offer violence to persons and property in the town of Colorado City and that vicinity, and by force and violence to break and resist the laws of the State, and that the sheriff of El Paso county is unable to preserve and maintain order and secure obedience to the laws and protect life and property, and secure the citizens of the State in their rights, privileges and safety under the Constitution and laws of the State, in such cases made and provided;

"I therefore direct you, in pursuance of the power and authority vested in me by the Constitution and the laws of the State, to direct the brigadier general commanding the National Guard of the State of Colorado to forthwith order out such troops, to immediately report to the sheriff of El Paso county, as in the judgment of the brigadier general may be necessary to properly assist the sheriff of that county in the enforcement of the laws and Constitution of this State, and in maintaining peace and order.

"Given under my hand and executive seal this third day of March, A. D. 1903.

"JAMES H. PEABODY,
"Governor."

"To the Adjutant General, State of Colorado."



Victor Union Hall after its Occupation by the Militia.

of police, and the city attorney united in a protest against the presence of troops.[7] Business men protested generally. A petition protest was circulated, received 600 signatures, and was immediately presented to the state legislature.[8] There is every reason to suppose that the governor acted under stress in the matter, and contrary to his own personal judgment.

On the evening of March 3rd, 125 members of the National Guard, of whom 25 were officers, left Denver for Colorado City. With them were two gatling guns, 25 horses, and the various equipment for field service.[9] Arriving at Colorado City they went into camp. Next morning lines of men were thrown around the mills; the union pickets were forced to disperse; and their camps were removed.[10] The militiamen were very vigorous in their actions. The streets of Colorado City were guarded at various times; the union hall was put under surveillance; and the homes of suspected union men searched.[11] The union's officers were loud in their denunciation of the activity of the militia. Within ten days civil suits had been entered

[7] GOVERNOR PEABODY—It is understood that the militia has been ordered to our town. For what purpose we do not know, as there is no disturbance here of any kind. There has been no disturbance more than a few occasional brawls, since the strike began, and we respectfully protest against an army being placed in our midst. A delegation of business men will call upon you tomorrow, with a formal protest of the citizens of the city.

(Signed) J. T. FAULKNER, Mayor.
GEORGE G. BIRDSALL, Chief of Police.
JOHN MCCOACH, City Attorney.

Chief of Police George G. Birdsall, of Colorado City, in an interview the following day after the arrival of the troops, said:

"I have talked with a number of people during the afternoon, and they are all exceedingly indignant at the thought of having the militia come among us. If some trouble had arisen which we experienced difficulty in handling, then there might have been some cause for sending soldiers over here, but nothing of the kind has taken place. The assaults have been mainly fist fights, which are apt to take place at any time. I do not know of a place where a gun play has been made within my jurisdiction. If I could foresee that men involved in this labor trouble here would resort to the use of weapons, I might become scared myself, but the boys have never appeared to take that course, nor do I believe that they will countenance such methods in trying to win their fight. They know, as well as all good citizens, that they must have the public behind them, and I am sure that they do not care to employ force to win their victory."

[8] This petition was put into the hands of the officials of the union and circulated to them. See *Official Proceedings*, W. F. M. A., 1903, p. 118.

[9] *Bureau of Labor Statistics Report*, 1903–1904, p. 55.

[10] The union later established some pickets outside the lines of troops.

[11] For detailed statement of orders, movements, etc., see *Adjutant-General Biennial Report*, 1903–4, pp. 10 and 11.

against the militia officers charging them with the arrest, detention, and imprisonment of citizens pursuing lawful vocations, the searching of citizens upon the public highways, the entrance of the homes of citizens, and the seizure and retention of the goods and chattels of citizens.

Partial Settlement by Arbitration

The Federation countered the militia movement by requesting the mine owners in the Cripple Creek District to cease shipments of ore to the Colorado City Mills. It was understood that the men in the mines would be called out if the request were not complied with. The Mine Owners' Association in a meeting held March 5th, refused.

The citizens of the Cripple Creek District, roused to the danger of the situation, now entered the field. Mass meetings at Cripple Creek and Victor passed resolutions urging that the difficulty be submitted to arbitration. An appeal was submitted by the business men of Victor to the District Council of the Federation, asking "that action of all kinds in the matter of the impending labor difficulties" be deferred for one week to give opportunity for "an amicable settlement of existing conditions." The appeal was granted immediately upon its presentation, and the district and general officers took advantage of the occasion to declare publicly their entire willingness to submit the matters in dispute to arbitration.[12]

On March 9th the state legislature adopted a joint resolution demanding that the parties in the controversy submit their claims to arbitration. Two days later the governor made a personal investigation. The day was spent in interviews with the officials of Colorado City, the union officers, and in visits to the mills where the governor talked with the men still at work. In the evening a public reception was given in the Antlers Hotel, Colorado Springs. Returning to Denver the governor announced that he did not feel justified in recalling the militia.

[12] See interviews of President Moyer and Secretary Hayward in Colorado papers, March 9, 1903.

At the same time he issued invitations to the officers of the Federation, and to the mill managers, to meet with their council in his office, to confer relative to adjusting the matters at issue.

The invitation was accepted, and the conference met at 2 p. m. March 14th. The negotiations did not proceed to suit Manager MacNeill. He was unwilling to join the other managers in making concessions for the settlement of the strike, and declaring that they were violating an agreement among themselves he withdrew with his attorney early in the evening.[13] The conference between the other parties continued, and after an all-night session terms of settlement were agreed upon. The agreement with the Portland Mill was as follows:

"First: That eight hours shall constitute a day's work in and around the mills, with the exception of the sampling department, which may extend to ten hours.

"Second: That in the employment of men by this company there shall be no discrimination between union and non-union labor, and that no person shall be discharged by reason of membership in any labor organization.

"Third: That all men now on strike shall be reinstated within twenty (20) days from Monday, the 16th day of March, A. D. 1903, who shall have made application for work within five days from this date.

"Fourth: That the management of the Portland Gold Mining Company will confer with any committee of the Colorado City Mill and Smeltermen's Union, No. 125, at any time within twenty (20) days, upon a subject of a scale of prices.

"Dated at Denver, Colo., this 14th day of March, A. D. 1903.

"FRANK G. PECK,
"For the Portland Gold Mining Company.
"CHARLES MOYER,
For Mill and Smeltermen's Union."

[13] *Special Report, United States Commissioner of Labor,* "Labor Disturbances in the State of Colorado," p. 119.

Mr. MacNeill's attorney (Judge Babbitt of Colorado Springs) has explained that before going to the Denver conference the mill managers came to an agreement upon conditions for which they were to stand absolutely. It was when the other managers began to weaken and to recede from these conditions that Mr. MacNeill left the conference.

The agreement with the Telluride Mill was the same, except that as the mill was undergoing construction and repair work and could not be opened immediately, the management simply bound itself to reinstate its old employees upon the resumption of operations.[14]

The first clause fixed the hours of labor exactly as they were before the strike. The second clause was merely a formal statement of the open shop principle, which existed previously, in appearance at least. The third clause protected the men from punishment for having been strikers, and the fourth agreed to a further conference on the wage question. The union had gained its recognition, but not the advanced wage scale.[15]

On the further invitation of the governor, Manager MacNeill met with President Moyer and Secretary Haywood of the Federation for a second conference. He would however make no concessions. He refused to recognize the union, or to confer with a committee in any way relative to a change in wages. No agreement should be made to reinstate the men, nor a single laborer lose his position to give work to a striker. He would only agree not to discriminate against federation men when in the future he should have need of additional workmen.[16]

As the result of the conferences the strikes were called off at the Portland and Telluride Mills, but continued at the Standard. The governor agreed to the withdrawal of the militia, and the Federation to the withdrawal of the suits that had been entered against the militia officers.

It is greatly to be regretted that Manager MacNeill insisted upon taking such an uncompromising attitude through the negotiations. If the series of events which were taking place at this time could have been stopped at any point the whole unfortunate aftermath at Cripple Creek might have been avoided. The union was acting in a conciliatory spirit, and had shown its willingness to come more than half way; the other managers had come to a satisfactory agreement, and any other attitude

---

[14] For detailed statement see *Ninth Biennial Report, Bureau of Labor Statistics*, Colorado, pp. 57 and 58.

[15] In the later conference the Portland and Telluride Mills agreed to the schedule asked for by the union.

[16] *Special Report,* United States Commissioner of Labor, p. 119.

than that of laying down his own terms, and standing inflexibly upon them in a take them or leave them spirit, must have resulted in a settlement.

Temporary Strike at Cripple Creek

On March 16th, the week during which a stay of proceedings had been granted was ended, and the Cripple Creek District Union made a formal demand upon the mines furnishing ore to the plants of the Colorado Reduction and Refining Company to cease their shipments. The Victor Business Men's Committee made a last effort to get President Moyer and Manager MacNeill together in a settlement, but were unsuccessful. The mine owners took no action, and on March 17th, a strike was called upon all the mines furnishing ores to plants of the Colorado Reduction and Refining Company at Colorado City and Florence.[17] The strike affected the Independence, Vindicator, Ajax, Independence Consolidated, Mary McKinney, Isabella, Strong, Findley, Mountain Beauty, Elkton, Granite, Gold King, Thompson, and Blanche mines, which were operating on the open shop principle and employed about 750 union men. The operators of the Vindicator and Mary McKinney mines agreed not to ship to the Colorado Reduction and Refining Company, and were allowed to continue.

The miners were not generally in favor of the strike. They had no grievance of their own, and could not see the logic of leaving their positions to help a few mill men in Colorado City. If the constitution of the Federation had been fully carried out and the question submitted to referendum vote in each local

[17] The strike at Cripple Creek was called by the District Council upon the formal request of President Moyer. See *President's Report in the Convention Proceedings* of 1903, p. 28:—"On March 16, after conferring with your Secretary-Treasurer and Member of the Board Copeley, we decided to request District Union No. 1 to notify all men working on properties supplying ore to the Standard Mill in Colorado City to discontinue work." Such a request amounted practically to a demand. (See same, p. 23.) Thus, while the responsibility was technically thrown upon the District Council, the General Executive Board was the real power behind the act. But see also *Convention Proceedings*, 1903, p. 118. Also, resolution, same, p. 248. "6. We commend the President for his promptness in calling out the miners of the Cripple Creek district to aid the striking millmen at Colorado City."

union there is small likelihood that the men could have been induced to vote the strike.[18] Most of the mines concerned were under contract to furnish their ores to the Colorado Reduction and Refining Company.[19] They could not accede to the demand of the union without making themselves liable to heavy damage suits, and hence the strike was called against them with their hands tied.

The call of the strike at Cripple Creek did not discourage those who were working for a peaceful settlement of the difficulty, but rather induced them to redouble their efforts. The business men of Cripple Creek and Victor continued their vigorous campaign. Governor Peabody on March 19th, issued a proclamation, and appointed a special advisory board to inquire into the labor difficulties, and to come to some conclusion if possible in the matter. As named by the governor the membership of the board consisted as follows: President Wm. F. Slocum of Colorado College, Colorado Springs; Hon. Chas. D. Hayt[20] of Denver; Rev. Thomas A. Uzzell[21] of Denver; Hon. Frank W. Frewen[22] of Cripple Creek; and Father Joseph P. Carrigan[23] of Denver. President Slocum was unable to serve on account of pressure of work, and his place was not filled.

The board convened in Denver March 21st, and held sessions for several days, taking testimony from the federation and mill officials, and others. On the 25th it met in Colorado Springs

[18] It should be said that this conclusion differs from that of Walter B. Palmer, who conducted the investigation for the Labor Department of the United States Government, and also from that of W. H. Montgomery, the Deputy State Commissioner of Labor, in his biennial report for 1903–4. The language in the conclusions of both is identical: "It seems probable that if a referendum vote had been taken of the miners in the district a majority would have voted in favor of the strike." The conclusion of the author rests largely upon his personal knowledge of the conditions. He was in the district twice, in February and March, gathering material for the report on the strike of 1893, and had occasion to talk with a number of the miners. Excepting some of the officers, he did not find a man who favored a walk-out in sympathy with the Colorado City men. There was the strongest feeling that such talk was idle nonsense.

[19] *Biennial Report Commissioner of Labor*, 1903–4, p. 60.

[20] Mr. Hayt is an ex-judge of the supreme court.

[21] Mr. Uzzell was a popular Denver preacher, and Republican politician. He is now (1905) County Commissioner of Denver County.

[22] Mr. Frewen was Representative from Cripple Creek. He is now employed in the interests of the Colorado and Southern Railway.

[23] Father Carrigan has for a long time shown an intelligent interest in labor questions.

and had a conference with a committee of the Mine Owners' Association. Next day it held its session in Colorado City, where it examined strikers, and employees of the mills, and officials of Colorado City.

As the result of its investigations the board reached the conclusion that the points at issue were in reality of small import, and that, "a heart to heart talk" should bring about a settlement.[24] Accordingly a conference was secured between the officers of the reduction company and of the Federation, and attorneys for both sides, present also officers of the Colorado City, Victor, and District unions, the Mayor of Cripple Creek, and the Victor committee. Little by little the non-essential points were weeded out, but it seemed impossible to get an agreement upon the points that had proved stumbling blocks at the earlier conferences—the recognition of the union, the wage scale, and the immediate employment of the strikers. Manager MacNeill at length agreed to receive and confer with a committee of the mill employees concerning changes in the wage scale, but still declined to meet such a committee from the Federation. President Moyer waived the recognition of the Federation committee and accepted the offer of a conference without the guarantee of any increase in wages.

On the point of reemployment the negotiations were still unsuccessful. Manager MacNeill was emphatic in his refusal to set a time limit within which the strikers should be reinstated, or to make any agreement by which any men employed since the opening of the strike could lose their positions. The Victor committee offered to give employment to the strikers in the Cripple Creek District at $3.00 per day if the strike should be called off without reinstatement, but President Moyer refused. They then offered to give the same work to men who lost their positions at the Standard Mill if the strikers be reinstated, but

[24] Official statment given to the press, March 29, 1903. See also *Report of the Bureau of Labor Statistics*, 1903–4, p. 62.

"As soon as the members of the Governor's advisory board were sufficiently advised of the real causes of the strike, they concluded that if the parties could be brought together in a heart to heart talk it might result in an amicable adjustment of their differences. This belief was strengthened by the fact that the board was of the opinion that such differences were too slight to be the cause of involving this State in an industrial war."

Manager MacNeill refused. This action, however, broke the ice. Manager MacNeill offered to give preference to the strikers, and take them back as soon as openings could be found at the mills. It was hoped, he said, that the increase in ore shipments would permit the opening of the Colorado Mill shortly, and in that case the men would be rapidly reemployed. This offer was finally accepted by President Moyer. Both sides waived the question of a written agreement,[25] but the advisory board was to meet again in May and determine whether the agreement had been faithfully carried out.[26]

Telegraphic reports of the settlement were received in the Cripple Creek District with the greatest rejoicing. Bells were rung, whistles blown, the papers put out special editions to spread the news. Purses were raised and bands gotten out. Committees and officials coming in from the conference were met at the trains, and placed at the heads of processions which marched streets illuminated by bonfires and colored powders. There was endless cheering, and tooting of horns, and speech-making; and over all the ringing of bells, the droning of whistles, and the crash of giant crackers. A mining strike settled was an event for the most intense rejoicing in the Cripple Creek District.

---

[25] This was a serious mistake. The whole latter dispute was made possible only by disagreement as to what had been the exact terms of the compromise.

[26] *Official Statement of Advisory Board*, March 31.

"Mr. Moyer has this day agreed to accept the proposition of Manager MacNeill, as given in the communication of March 29, and he has declared the strike off, basing his action to some extent upon the opinion of the board as to the time within which it may be confidently expected that the men will be reinstated. Mr. Moyer has stated that he did this because he wished, so far as possible, to avoid bringing loss upon others, and particularly the miners and mine owners in the Cripple Creek district, for a cause, which, in the opinion of the board, was not serious."

CHAPTER III

THE CRIPPLE CREEK STRIKE

The Call of the Strike

The shipments of ore to Colorado City did not increase sufficiently to permit the opening of the Colorado Mill. The hope that this mill could be used to rapidly employ the union strikers was therefore without fulfillment. It became apparent early that Manager MacNeill and the Colorado City Union interpreted the terms of their agreement differently. As fast as vacancies occurred the positions were offered by the company without regard to the kind of work or the wage, but were refused by the men unless given their former kind of work and former wage. The company was holding the agreement to mean simple reemployment, the men, to mean reinstatement. Further cause of irritation was the refusal of Manager MacNeill to consider a new wage schedule. He met the committee of mill men according to his agreement, but that was all.

The advisory board convened for its final sessions on May 23rd, and received statements from the Colorado Reduction and Refining Company and the Western Federation. The statement of the company set forth that there had been one hundred two applicants for work, of whom forty-two were refused and sixty offered employment. A detailed list was given of the refusals, with reasons therefor. Forty-seven of the sixty men to whom work had been offered refused it, and only thirteen accepted. Twenty-seven were offered positions at the same pay they had received before the strike, eight accepted, nineteen refused. Eleven were offered higher wages, three accepted, eight refused. Twenty-two were offered smaller wages, two accepted, twenty refused. Work

had been refused in all cases where it did not give the man the same position that he occupied before the strike.[1]

The statement of the union took exception to many of the refusals of the company to employ men, and gave a detailed rebuttal to the statements made concerning them. It insisted that the agreement had been to reinstate the men in their old positions, and that the company had failed to keep its promise.[2]

After several days deliberation the board made a final report to the governor in which the conclusion was reached that the company had to the best of its ability carried out its promises.[3] There is every evidence that this conclusion was a just one, so far as the letter of the agreement at least was concerned. The whole question was as to whether the company had agreed to reinstate, or simply to reemploy. Throughout the whole preceding series of conferences Manager MacNeill's position had been firm that he would take no step that would remove from his position a single man then in his employ, and a promise to reinstate the strikers must have meant the displacement of many. President Moyer in his report to the annual convention of the Federation in June states clearly that the proposition from Manager MacNeill which he finally accepted was to "take back" the striking men "without discrimination, if vacancies occur in the working force." and that Mr. MacNeill had just rejected a proposition offered by himself which included the "reinstatement" of the men.[4] As to whether the company had not in reality discriminated by offering work in the most unac-

---

[1] *Report, Commissioner of Labor, U. S.*, 1905, p. 129, and following. The statement is given in detail in *Official Proceedings, 12th Annual Convention, Western Federation of Miners*, pp. 125–133.

[2] *Official Proceedings, 12th Annual Convention, Western Federation of Miners*, pp. 134–140. But see also some contrary opinions by union officers in same, pp. 169–170.

[3] The report is given almost in full in the *Special Report of the Commissioner of Labor*, U. S. A., 1905, *Labor Disturbances in Colorado*, pp. 130 and 131.

[4] *Official Proceedings*, W. F. M. A., June, 1903, p. 28. Paragraph from the proposition submitted by Mr. MacNeill:

"Third. Men who had left the company's service on account of the recent strike to be taken back without discrimination as to being union or non-union men, if vacancies occur in the working force."

Paragraph from counter "ultimatum" submitted by Mr. Moyer:

"Third. All men who have left said company's service on account of the present strike, and all men who have been discharged, if any, for no reason

ceptable way, and in refusing entirely to employ many of the men, the evidence is not so clear.

A month elapsed between the report of the commission and the second strike at Colorado City. No further men were employed by the Colorado Reduction and Refining Company, so the situation relative to the reemployment of the strikers developed no further. The union was dissatisfied however with the findings of the commission, and continued to declare that the company was violating both the spirit and letter of its promises, and to threaten another strike. The situation was further disturbed by the controversy over the question of wages. On May 1st. the Telluride and Portland Mills had agreed to the schedule submitted by the union, increasing the minimum wage from $1.80 to $2.25, and the continued refusal of Manager MacNeill to consider this schedule caused dissatisfaction to his employees, and also to the managers of the other mills. Manager Hugh Fullerton of the Telluride posted a notice on July 1st. to the effect that after July 5th wages would be reduced, and the minimum be $2.00 per day. This notice was removed upon the calling of the second strike.

A statement of the conditions cannot be complete without a word upon the status of eight-hour day legislation in Colorado at just this time. The state legislature in 1899 had passed an act limiting the labor day in mines, smelters, and reduction plants, to eight hours. The law was an almost verbatim copy of the eight-hour law of Utah, which had been declared constitutional by the supreme courts of the State of Utah, and of the United States, but notwithstanding this fact the Colorado Supreme Court declared it unconstitutional. In 1902 a constitutional amendment was passed by popular vote commanding the legislature to pass an eight-hour act. But when the legislature convened in 1903 a powerful lobby appeared upon the scene. Conflicting bills were introduced, and loaded with a confusion of dispute-provoking amendments. The two houses

---

other than that they were members of Colorado City Mill and Smeltermen's Union No. 125, of the Western Federation of Miners, shall be reinstated."

"The same were promptly rejected by Mr. MacNeill, and on March 31, I declared the strike off, or rather declared an armistice until May 18, * * * " See also opinion of some union officers, same, pp. 169 and 170.

could not agree upon a measure, and adjourned in April having accomplished nothing.

Upon the failure of the eight-hour legislation the Western Federation of Miners inaugurated a vigorous campaign of organization and strikes among the smelters of the state, to secure by force what apparently could not be gained by the ballot. The second strike was brewing in Colorado City. The eight-hour day was not an issue there.[5] But the Federation had decided upon a show of power, a trial of strength that would show that not with impunity could it be trifled with. The Cripple Creek District was its stronghold, the place for the most spectacular display, and there can be no question that these things had a powerful influence upon the executive officers of the Federation in bringing about the following strikes at Colorado City and Cripple Creek.

On July 3rd, a second strike was declared upon the Colorado Reduction and Refining Company at Colorado City. Only nine men responded to the call.[6] Following the former tactics the men were called out from the mines in the Cripple Creek District on August 8th. But this time the Federation did not stop with the mines which were furnishing ore to the Colorado Reduction and Refining Company. The men were called out from all the mines of the district, with the exception only of a few small properties whose ores were being reduced by plants within the district. Thirty-five hundred men were affected, working in about 50 different mines.

[5] On March 12, 1904, near the close of the strike, the federation issued a proclamation of which the following is a part:

"We wish once again to call the public's attention to the fact that the Western Federation has at no time made any demand of the mine owners of the Cripple Creek district other than that they withdraw their patronage from the mill trust in order that living conditions might be secured for the employees of said mills.

"This, it is unnecessary to say, they have refused to do, thereby compelling the members of the Western Federation of Miners to discontinue the reduction of ore or grossly violate their obligations and abandon their fellow members who were formerly employed in the unfair mills.

"While we deplore the necessity which makes us a party to the continued unsettled conditions which now prevail, being wholly convinced our cause is one of justice, we have no intention of giving up the battle until justice shall prevail and the same right conceded to mine and mill workers that is demanded by their employers."

[6] *Special Report U. S. Commission of Labor*, p. 161. They were all among the 13 men taken back under the Moyer-MacNeill agreement.



Deporting Union Men to Kansas State Line.

The strike was called by the District Council of the Western Federation, in exercise of the general power given it months before the time of the first Colorado City difficulty. The district council was strongly under the influence of the executive board of the Federation; it was the executive board that forced the action, and loath as the gentlemen composing this board have been to shoulder the responsibility, to them it belongs and to no others.[7]

There may be some doubt as to the opposition of the Cripple Creek miners to the first strike, but there can be none as to their opposition to the second. Loyally they obeyed the strike order of their organization and laid down their tools, but the vast majority, (many have put it as high as 90 per cent.) were unwilling to strike, and bewailed the haste with which they had voted away the control of their own labor.[8]

The strike at Cripple Creek was in support of the strike at

[7] The folowing paragraph from the president's report in the *Official Proceedings* for 1903, pp. 23-24, shows where the power lay practically.

"At the close of this convention your officers, whoever they may be, should know whether they have the power to conduct the affairs of the organization between conventions or whether they must obtain the permission of a local union before they are permitted to act in what they consider the best interests of the organization. If, in cases of emergency, it is optional with a local union as to whether they go on strike in support of another local, when in the opinion of your Executive Board it is for the best interests of the Federation that they should discontinue work, then your officers are, indeed, helpless and uncertain of the outcome of any attack which may be made by the enemy. During the past year some unions have questioned the authority of your executive officers to order a strike without submitting the same to the local involved for a referendum vote. This is a matter of great importance, and in amending your Constitution you should so define the authority of your officers as to avoid occurrences of this nature in the future."

The convention passed the amendment asked for, giving the Executive Board power to call strikes (see same, p. 226), but this did not go into effect officially until later, when it had received the vote of the local unions.

See also footnote 1, p. 81, on calling of first Cripple Creek strike.

[8] In this connection see opinions of some of the Cripple Creek union officials before the annual convention, June, 1903. *Convention Proceedings*, pp. 169 and 170. "Brother Seitz doubts if called on to come out that they would respond."

"W. B. Easterly states that the officers of No. 19 . . . are satisfied that the boys in Cripple Creek will not respond as readily as before."

"Pollard . . . states that No. 19 would come out if asked, but states that they are only a small part of the Cripple Creek District for all that."

"W. F. Davis states . . . that if called out No. 19 will come out any time. . . . He states that Dan Griffis, secretary, of Victor, stated that, if called out, the members of Victor Union No 32, he thought, would respond only to the extent of twenty per cent.

"E. J. Campbell, No. 40, states that MacNeill has contract with mine owners

Colorado City in which nine men were out. It tied up the industry of a whole section. The Western Federation of Miners had never had an organization in the Colorado City Mills, and the whole difficulty resulted from the attempt at organization there. Success had been achieved in two of the working plants, but not in the third. Ostensibly to force into line this third plant, which was running full capacity, 3,500 men were called from the mines. The Cripple Creek miners were to be used to club the mine owners into clubbing the Standard Mill to the wishes of the Western Federation of Miners. Comment on such an action is hardly necessary.[9]

The First Period of the Strike

Quiet prevailed in the Cripple Creek District during the first three weeks of the strike. Mining operations were almost entirely suspended. The men held frequent meetings, strengthening their organization, and thoroughly picketing the district to prevent any men from going to work. The Standard Mill was compelled to shut down on account of lack of ore September 2nd, but announced that one-third pay would be given its employees for an indefinite period. The Portland Mine was allowed to resume operations on August 22nd. All of its ores were reduced by its own mill at Colorado City, and the management agreed specifically that no ores should be shipped to "unfair" mills. The mine was not unionized but continued on the open shop principle. The merchants of the district having announced

---

which will force them to ship to him or stay closed. My opinion is that at this time the men will not come out if called."

"C. E. Johnston, No. 106 Millmen's Union, . . . feels that Advisory Board, after giving decision, should control our actions."

The Cripple Creek Union asked for a constitutional amendment making all legislation of the district unions subject to the initiative and referendum, but it was voted down. See, same, p. 218.

[9] The queston as to whether the strike was "sympathetic," being merely a question of terms, need not be discussed here. The mine owners insisted upon calling it a sympathetic strike, while the Federation declared that since the strike was all within its own order it was not sympathetic. Whatever be our terminology the vital point remains that the strike at Cripple Creek was called for the sole officially announced purpose of forcing the United States Reduction and Refining Company to close its works through lack of ore.

that they would allow no further credit during the strike, the unions organized cooperative stores in Cripple Creek, Victor, and Anaconda. Goods were sold to the miners from these stores at cost, for cash, or upon orders from the union. The treasury of the federation was well supplied, and no hardship was experienced.[10]

Late in August the Colorado City Union called a strike upon the Telluride Mill, which earlier in the year had granted all the demands of the union, including the increased schedule of wages. Walter Keene, the head precipitator, considered one of the best men in the employ of the company, had remained non-union and refused all invitations to join the organization. He was warned to leave. When he entered the mill on the 25th, he was met by a crowd of men, jostled, threatened, and finally struck on the head with a dinner pail. Thoroughly frightened he went to the office and resigned. Manager Fullerton discharged two of the men for participation in the assault, and stated his position with vigor in a letter to the union.[11] The union officials demanded the reinstatement of the discharged men, and upon being refused called a strike at the mill.

The unfairness of the strike at Cripple Creek was felt keenly by the owners of the mines. There were no grievances to adjust,

---

[10] During the period the Mine Owners' Association was made a formal organization, and elected its first set of officers. The Citizens Alliances of the district were also formed at this time, and began to exert their influence as allies of the Association. For a general history of these organizations see Chapter VI.

[11] *Special Report, Commissioner of Labor*, p. 165:

"Mill and Smelter Men's Union No. 125, Colorado City."

"Gentlemen:—When our company informed you that it was not our intention to discriminate against union men, when hiring our force of workmen, we understood that your union was not to discriminate. One of our best men, Mr. Keene, has just resigned from our employment because of actual bodily violence, and because of threats on his life made by a mob of your union in our employment.

"Our company will not stand for any such system of dictation by any union, as to whom we may or may not keep in our employment, and we give you notice that Mr. Keene did not resign with our consent; that we are well satisfied with him in all respects, and that had he been willing to remain in our employment we should have stood back of him in all events; and that if any such system of dictation is again attempted by your union our company will discover which of our employes belong to your union, and will at once discharge every union man, for the sole reason that he is a union man, and that thereafter we will conduct our mill as a non-union mill.

"H. W. FULLERTON,
"General Manager."

nor any apparent method of settlement unless they were to join hands with the organization that had acted so arbitrarily against them, and eating humble pie, seek to force the Colorado City Mills to share it with them. They determined to exert their strength to the limit to break the strike, and to break it without compromise. On August 13th, they issued a statement which reviewed the satisfactory conditions at the time of the strike, and the unwillingness of the men to participate in it. The strike was characterized as most arbitrary and unjustifiable, and they announced their intention to open their mines and operate them in future in absolute independence of the Western Federation of Miners.[12] It was decided to combine upon the opening of single mines, and the El Paso was chosen for the first. The shaft house was surrounded by a stockade, and a board fence ten feet high, and 17 armed guards placed upon the property. The mine was opened August 18th, with about 75 men.

A series of events on Sept. 1st, ended the period of good order and immediately precipitated a crisis. The Golden Cycle Mine was preparing to start up, following the El Paso, and was being surrounded by a board fence. When the carpenters came to work they were held up with a gun by a union picket, but were later allowed to pass. Ed Minster was arrested for the offence and lodged in jail. In the afternoon John T. Hawk-

[12] "A general strike has been called on the mines of the Cripple Creek district by the executive heads of the Western Federation of Miners. At the time this strike was called, and in fact ever since the settlement of the labor difficulties of 1894, the most entire harmony and good will has prevailed between the employers and employed in this district. Wages and hours of labor have been satisfactory and according to union standards, and general labor conditions have been all that could be wished.

"Notwithstanding all this, the heads of the Western Federation have seen fit to compel the cessation of all labor in the district, not because of any grievance of their own against the Cripple Creek operators, but for reasons entirely beyond our control. No more arbitrary and unjustifiable action mars the annals of organized lagor, and we denounce it as an outrage against both the employers and employed.

"The fact that there are no grievances to adjust and no unsatisfactory condition to remedy leaves the operators but one alternative, and that alternative they propose to adopt fearlessly. As fast as new men can be secured, our mining operations will be resumed under former conditions, preference being given to former employees, and all men applying for work will be protected to the last degree."

ins, a justice of the peace, was assaulted upon the main street of Altman, knocked down and badly cut upon the head. He had discharged one of the El Paso deputies the day before on the charge of carrying concealed weapons, and fined another one $25.00 and costs. On the same night Thomas M. Stewart, an old man, who had gone to work as a carpenter upon the Golden Cycle, was taken from his home by five masked men, cruelly beaten, shot in the back, and left for dead. He managed to crawl to the electric road, and was taken to the Victor Hospital, where he finally recovered.[13]

These outrages stirred the district deeply, and the feeling was intensified the following day by the release of Minster. The district attorney had been delayed in filing the information against him. Undersheriff Gaughan,[14] a federation member of the most extreme type, had been notified that the information was being prepared, but took advantage of the technicality to set Minster at liberty. The mine owners had already begun to demand troops on account of the assaults of the day before, and they were now able to back their demands with the declaration that the county authorities were not trying to give them protection.

The Militia in the District

Sheriff Robertson was asked to call for troops, but refused, saying he could and would control the situation.[15] He agreed however to appoint deputies of the mine owners' choosing and did so in sufficient number to station from three to five men at every mine. Telegrams were sent by a number of the mine owners to the governor, and a lengthy message was sent by the mine owners in common, which declared a reign of terror to be imminent, and the sheriff's office unable to handle the situation,

[13] On Sept. 2nd the Mine Owners Association offered a reward of $300 for information leading to the arrest and conviction of the person who had assaulted Justice Hawkins and $1,000 for those who had assaulted and shot Thomas M. Stewart. The Golden Cycle Mining Co. offered an additional reward of $500 for the arrest of Stewart's assailants.

[14] Undersheriff Gaughan was a member of the legislature at the time El Paso County was divided. He was appointed assessor by the governor, but was defeated for nomination in the convention the following fall. He then opened a saloon, where he presided up to the time of his appointment as undersheriff.

[15] Sheriff Robertson was a member of the Western Federation of Miners.

and demanded state protection. Mayor French of Victor also sent messages asking for troops.[16]

Next day Governor Peabody appointed a commission composed of Brigadier General John Chase,[17] Attorney General A. C. Miller, and Lieutenant T. E. McClelland,[18] to investigate conditions. The commission left at once for the district. On the same evening the governor and General Bell held a conference with President Colburn and Treasurer Bainbridge of the Mine Owners' Association. As the result of the conference the governor agreed to call out the troops, but insisted that the mine owners should provide funds for the expenses of the campaign, accepting state certificates of indebtedness payable in four years.[19] The commission arrived at Victor at about nine o'clock at night, and held a conference with Mayor French, and others. It then proceeded to Cripple Creek, where it met members of the Citizens Alliance and Mine Owners' Association, Sheriff Robertson, and Mayor Shockey. Mayor Shockey refused to sign a request for troops, and Sheriff Robertson insisted that he had the situation well in hand, and that there was no need for troops. The commission left on a special at four o'clock in the morning, having been in the district less than eight hours, and from Colorado Springs telegraphed their opinion of the urgency of the situation.[20] The governor a few hours later issued an order calling out the troops.*

---

[16] Mayor French was manager of the C. C. C. Sampler.

[17] General Chase was later prominent in the friction between the military and civil authorities, and was an important factor in all the military activity.

[18] Lieutenant, later Major, McClelland also became a prominent figure in the militia movements. He is the man who when accused of having violated the constitution replied, "To hell with the constitution! We aren't going by the constitution." He is now (1905) county attorney of Teller County.

[19] *Special Report, Commissioner of Labor*, U. S. A., p. 175.

[20] Peabody, State Capitol, Denver, Colo.

Have visited Cripple Creek and Victor, and after careful inquiry among representative citizens and property owners, including mayors of Cripple Creek and Victor, we are of the opinion that the lives of the citizens of the district are in imminent danger and property and personal rights are in jeopardy. Prompt action is imperatively demanded by the above people to protect the lives and property of the citizens. We find that a reign of terror exists in the district. We do not believe that the civil authorities are able to cope with the situation. (Signed by the three commissioners).

* EXECUTIVE ORDER.

"Ordered: It having been made to appear to me by reputable citizens of the county, by the constituted civil officers and by the honorable commission

There has been considerable difference of opinion as to the necessity for sending troops to the district at this time. The only call for them had been by the mine owners or those closely connected with them, and the local authorities were practically a unit in denouncing the act as an outrage. It must not be forgotten in this connection how thoroughly the police officers of the county were in sympathy with the unions, but from two of the most unprejudiced and non-partisan sources, the Mayor of Cripple Creek, and the Board of County Commissioners, there came from the former a refusal to call for troops, and from the latter a protest of no uncertain sound.[21] There had

appointed by me to investigate the matter, that an insurrection is threatened in the county of Teller, in the State of Colorado, and that there is a tumult threatened and imminent, and that a body of men are acting together, by force, with attempt to commit felonies, and to offer violence, to break and resist the laws of this State, and that a number of persons are in open and active opposition to the execution of the laws of this State in said county, and that the civil authorities are wholly unable to cope with the situation:

"I, therefore, direct you, in pursuance of the power and authority vested in me by the Constitution and laws of the State of Colorado, to direct the brigadier general commanding the national guard of the State of Colorado, to forthwith order out the First regiment of infantry, together with Company H of the Second infantry, Colonel Edward Verdeckberg commanding, together with the First squadron of cavalry, consisting of Troops B, D, and C, also Battery A, and the signal corps and the medical corps of the State, and to prevent said threatened insurrection; and he will protect all persons and property in said county of Teller from unlawful interference, and will see that threats, assaults and all sorts of violence cease at once, and that public peace and good order be preserved upon all occasions, to the end that the authority and dignity of this State be maintained and her power to suppress lawlessness within her borders be asserted.

"Witness my hand and the executive seal, at Denver, this fourth day of September, A. D. 1903. JAMES H. PEABODY.

"To Sherman M. Bell, Adjutant General of the State of Colorado."

[21] "Whereas, The board of county commissioners of Teller County have been advised that the governor of the State of Colorado has sent the militia to this county for the pretended purpose of suppressing a riot that does not now, and never did exist, and to protect property and individual residents of the county that are not in danger; and

"Whereas, It has been falsely reported throughout the State that property and life were in danger in Teller County.

"Now, therefore, The board of county commissioners of Teller County do protest—

"*First.* That property and individuals are as safe in this county as elsewhere in the state.

"*Second.* That the sheriff of Teller County is perfectly able to handle the situation here, and has been authorized by the board to employ any and all deputies necessary to protect life and property, which, in the opinion of the board, he is doing.

"*Third.* That there has been no unusual assembly of men and no more violence

been no riot in the district, nor any such condition of general lawlessness or disorder as is usually considered necessary for the calling out of troops. There had been individual assaults, however, and unquestionably the owners were being thwarted in the effort to open their mines by the fear upon the part of the men of physical violence. No one who knew the history of the Western Federation of Miners but would expect violence to accompany the opening of the mines, and in this doubtless lies the real reason for the presence of troops. They were called out to protect the owners in opening their mines, and to relieve the fears of the men who hesitated to return to work.

Pursuant to instructions Adjutant General Sherman M. Bell issued orders to the first regiment, and other companies of infantry, cavalry, and artillery of the Colorado National Guard, to proceed to the Cripple Creek District.[22] On Sept. 4th, they arrived, in number about 700, and went into permanent quarters at Camp Goldfield, among the largest mining properties of the district, near the town of Goldfield.[23] Subsidiary camps

---

than at other times. That the parties guilty of the late assaults will be apprehended by the civil authorities and prosecuted. The state troops can in no way aid in apprehending these parties.

"*Fourth.* That the citizens of the county are law-abiding and are doing all in their power to avoid trouble.

"*Fifth.* That the governor of this state, without cause therefor, has sent the militia to this county, and by so doing engenders ill feeling, prolongs the strike, and does a great injury to the Cripple Creek mining district.

"*Sixth.* It is the judgment of the board of county commissioners that the commission sent by Governor Peabody to this county to investigate the strike situation was not sent for an honest purpose, but as a cloak, to cause the people of the State of Colorado to believe that the law officers of Teller County were unable to handle the strike situation.

"This statement is made because the commission sent by the governor did not make an honest investigation of the situation. The commission reached here at 9:30 p. m. Thursday and left at 4 o'clock Friday morning, remaining in camp less than eight hours."

Unanimous resolution September fourth.

[22] The principal officers were as follows:

Adjutant General Sherman M. Bell, in command.

Brigadier General John Chase, acting in conjunction with General Bell.

Colonel Edward Verdeckberg, commanding First Brigade, District Commander.

Colonel Leo W. Kennedy, commanding First Regiment Infantry.

Colonel Lewis Barnum, commanding Second Regiment Infantry.

Major H. A. Naylor, Ordinance, Field and Staff Officer.

Major Tom E. McClelland, Judge Advocate and Provost Marshal.

Brigadier General Frank M. Reardon (Retired).

[23] *Adjutant General's Report*, pp. 128, 129, 130.

were located at Camp Bull Hill near Altman, Camp El Paso near the El Paso Mine, Camp Golden Cycle in the town of Goldfield, Camp Elkton in the town of Elkton, and Camp Cripple Creek in Cripple Creek. Additional troops continued to arrive, until by Sept. 30th their number reached over one thousand.[24] Guards were placed at all the large mines, and in all the towns and cities of the district, and sentinels were placed upon the public highways.

The signal corps proceeded to put into operation a most complete system of communications. At headquarters, lines of the Western Union and Postal Telegraph Companies, and of the Colorado Telephone Company, gave direct connections with points outside the district. The Colorado Telephone Company provided local service throughout the district, with a special switchboard, and in addition an entirely independent system was established directly connecting the military camps and departments. Signal stations were located on the tops of the principal hills, and kept in constant operation, and a searchlight moved from one vantage point to another flashed over the district by night. A more complete system would hardly have been established had an actual military campaign been in progress.[25]

On Sept. 10th the military authorities began a series of almost daily arrests of union officers and men known to be strongly in sympathy with the unions. The old wooden jail at Goldfield was surrounded with a high stockade, and used as a military prison, and became commonly known as the "bull pen". Here the men were confined for varying periods, without trial or preferment of charges, and discharged with threats of rearrest if they failed to conduct themselves in future according to the wishes of the military. Sept. 10th Chas. Campbell, H. H. McKinney, and three other men, were arrested. Next day James Lafferty, one of the union leaders, was added to the number. At midnight on the 12th a squad of soldiers entered

[24] Infantry 600, Cavalry 250, Artillery 75, Signal and Medical Corps 80; total, 1,005. *Bureau of Labor Statistics Report*, 1903-4, p. 81; *Biennial Report of Adjutant General*, p. 130.

[25] Report of the Signal Officers in *Biennial Report of Adjutant General*, p. 195.

the home of Sherman Parker, Secretary of the Altman Union, searched the house, and forced Parker to dress and accompany them to the jail. On the 13th a squad of 20 men stationed themselves at the Victor Union Hall and made a search for W. B. Easterly, President of the Altman Union, but failed to find him. Numbers of other officers and influential members of the unions were put under detention throughout the month.[26]

But the militia did not stop with the arrest of union leaders. On the 14th W. C. Reilley, a justice of the peace of Independence, was arrested and thrown into the "bull pen."[27] No charges were made against him, but it was understood that he had shown himself too friendly to the unions. Joe Lynch, City Marshal of Independence, was arrested and told that he had been talking too much. The chairman of the Board of County Commissioners, P. J. Lynch, was arrested by a file of 22 men and taken to headquarters. He was accused by General Chase of making remarks derogatory to the militia, and of advising the men not to return to work, and was then released, with the threat that he would be rearrested and kept if he did not change his attitude.[28]

Sept. 29th the militia arrested the working force of the Victor *Record*. The *Record* was the morning paper, and the local organ of the Federation. It was not inflammatory in its tone, but had published the official statements of the unions, and freely criticised the acts of the militia. A detail of 45 men marched to the office in the early evening, arrested the editor, George E. Kyner, and the four employees found there, and

[26] Nine cases were later filed in the district court by the federation charging John Chase, Sherman M. Bell, and Thomas E. McClelland with violating the constitutional rights of its members. The trials were held before Judge Robert E. Lewis, who held that inasmuch as the defendants were members of the state militia upon active duty they had the right to arrest persons, and that the length of time in the trial case was not an unusual length of time for confining persons without filing a complaint against them. He accordingly instructed the jury to bring in a verdict for the defendants.

Report of Judge Advocate in *Biennial Report, Adjutant General*, p. 191.

[27] Justice Reilley was an unsuccessful lawyer of the pettifogger type, a heavy drinker, and at times before elected justice of the peace, made his living by manual labor.

[28] Mr. Lynch was the one member of the board of county commissioners who was a member of the Western Federation. He was strongly in sympathy with the unions.



Deported Men Being Driven Across the New Mexico State Line. Antonito Mountain in the Distance.

took them to the "bull pen." The business manager and the press man arrived soon after the arrests had been made. Mrs. Langdon,[29] a linotype operator, having heard the news, came with all haste to the office. The doors were barred and admittance refused to a new squad of soldiers, and working with might and main this remnant of the force put out the issue at the regular time in the morning. At the head of the first page appeared the legend: "Somewhat disfigured but still in the ring." Mrs. Langdon then went up to see her husband, who was one of the employees arrested, and being refused admittance presented the guards with scarcely dried copies of the morning edition. The *Record* force was kept imprisoned for 24 hours, and then, under orders from Governor Peabody, was turned over to the civil authorities charged with criminal libel.

Whatever difference of opinion there may have been as to the need for troops, there could be none as to the effect of their activity once upon the scene. The fact that the campaign expenses were being borne temporarily by the mine owners could not but have its effect.[30] The military leaders were from the first in the closest sympathy with the mine owners, and the efforts of the troops were devoted not so much to the simple preservation of order, as to the crushing of the activity of the unions. General Bell expressed himself very simply on this point: "I came," he said, "to do up this damned anarchistic federation."[31]

---

[29] Mrs. Emma F. Langdon is the author of a book on the strike situation, *The Cripple Creek Strike*, which has been adopted by the Western Federation of Miners as the official statement of its side of the case.

[30] The *Army and Navy Journal* makes a terse comment on this action:

"But that he (the Governor) should virtually borrow money from the mine owners to maintain the troops he had assigned to guard their property, was a serious reflection upon the authorities of the state. The arrangement virtually placed the troops for the time being in the relation of hired men to the mine operators and morally suspended their function of state military guardians of the public peace. It was a rank perversion of the whole theory and purpose of the National Guard, and more likely to incite disorder than prevent it."

[31] General Bell gives his idea of the extent of his powers in the conclusions of his report to the governor, *Biennial Report, Adjutant General*, p. 20.

CONCLUSION.

"In concluding the report, I am not unmindful of the fact that during the critical times during the different military campaigns, when in a moment's notice, and without hesitation or a second's delay, it became necessary to act

Civil and Military Authority

The general quartering of troops throughout the district, their spectacular activity, and especially such events as the arrests of public officials, newspaper men, etc., caused much excitement, and at times aroused strong public indignation. Hotheads were not lacking with all sorts of suggestions for retaliation. The sheriff's office was besieged with demands that he should form a posse, and take the prisoners out of the "bull pen" by force, and had the sheriff been a stronger man serious trouble might have been precipitated. The county commissioners showed their cool headedness by calling in as expert counsel Ex-Governor Thomas, and United States Senator Patterson, both attorneys of large experience.[32] These men argued and advised, and explained between the various parties, and wielded an important influence in keeping the situation from the breaking point.

The friction between the civil and military authorities found its way into the courts. Friends of Chas. Campbell, H. H. McKinney, Sherman Parker, and James Lafferty made application in the district court for writs of habeas corpus, and Judge Seeds issued writs returnable on Sept. 18th. Upon the date set counsel appeared for the militia officers and moved to quash the return. The court set the hearing of the motion for Sept. 21st. Lieutenant McClelland appeared on the morning of the 21st, and asked permission to file an amended return. This Judge Seeds permitted but declared that it was imperative that the prisoners should be produced in court. The militia officers answered in a significant way. Ninety cavalrymen rode to the court house and surrounded it; the court was cleared, and only court officers and members of the bar permitted to pass in. A

---

quickly; the point of law is that, when, in a Constitution or a statute, the powers of a military commander are defined or decided upon as a military necessity, the definition is exclusive. The definition of "Military Necessity" is very respectfully submitted, viz.:

"Military necessity recognizes no laws, either civil or social."

See also Ray Stannard Baker in *McClure's Magazine*, March, 1904.

[32] Both are prominent Democrats, and stand among the leaders of the party in Colorado.

company of infantry escorted the prisoners to the court house, and fourteen men with loaded guns and fixed bayonets entered the court room with them. Next day the prisoners did not appear at all, though the court issued two orders for them. On the 23d, the court house was again suurounded by a large body of infantry and cavalry; a gatling gun was placed in the street in front; and a detail of sharpshooters occupied the roof of the National Hotel across the way. Under a guard of 35 soldiers the prisoners were then allowed to appear. The same proceedings were repeated on the 24th.

Judge Seeds decided the cases in favor of the petitioners, and ordered them released. In his decision he reviewed the conditions under which the militia were present in the district; examined at length the habeas corpus law; and cited the constitution of Colorado which declares that the militia shall always be in strict subordination to the civil power.[33] He admitted that the military commanders had the right to make arrests, but declared that the persons arrested must be turned over immediately to the civil authorities. General Chase refused to obey the order of the court, and took the prisoners back to the "bull pen." Later in the day they were released upon telegraphic orders from Governor Peabody. Other writs were granted from time to time and recognized by the militia officers, but the men were often rearrested immediately thereafter, and the orders of the court thus as effectively thwarted as though they had not been obeyed.

The presence of the National Guard had the desired effect

---

[33] *Constitution of Colorado.*

ARTICLE II.

WRIT OF HABEAS CORPUS:

Section 21. That the privilege of the writ of *habeas corpus* shall never be suspended, unless when in case of rebellion or invasion, the public safety may require it.

MILITARY SUBORDINATE TO CIVIL POWER:

Section 22. That the military shall always be in strict subordination to the civil power; that no soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, except in the manner prescribed by law.

From the opinion of Judge Seeds "There could be no plainer statement that the military should never be permitted to rise superior to the civil power within the limits of Colorado."

in facilitating the opening of the mines. Within a week after the arrival of troops the Findlay, Strong, Elkton, Tornado, Thompson, Ajax, Shurtloff, and Golden Cycle had started up with small complements of men. On Sept. 17th, seventy strike breakers arrived under military guard, and next day three carloads more came into camp. Numbers of federation members, out of sympathy with the strike and the organization, and assured of protection, returned to work. The mine owners issued an estimate on October 10th, showing 2,900 men employed, of whom 1,200 were union men employed by the Portland and other "fair" mines.

The Mine Owners' Association had agents in a number of states offering a three dollar wage and transportation, to men who would take work at Cripple Creek. They were not always careful to say that there was a strike in progress in the district, and the men were often unaware of the conditions until their arrival, when they were practically forced to go to work. On Sept. 19th, a number of new arrivals were being escorted to the Independence Mine by a company in charge of Lieutenant Hartung, when one of the number broke away and called to his fellows not to go to work but to follow him. The lieutenant tried to arrest the man, and upon his continuing to run fired at him. A warrant was issued for Lieutenant Hartung, but the military officers would not allow it to be served.[34]

---

[34] The warrant was sworn out upon affidavit made before Notary Abby C. Coldwell by Emil Peterson, the man shot at, and his companion Carl Hanson. The latter part of the affidavit is as follows:

"On the 8th of September I went to Duluth to get work. At Duluth B. B. Gilbert & Co. labor agents, 5 South avenue, west, employed me to go to work in the Colorado gold mines. I was to get from $3 to $5 per day to fire boilers in the mine. I was shipped here from Duluth. Mine owners of Cripple Creek advanced me $18 for car fare. The company would pay this if we contracted to work a month. About seventy-five men were shipped from Duluth. I don't know how many quit on the way. Others joined at St. Paul, making near 150 altogether. I think that about eighty of these, of whom only five had ever worked in a mine arrived last night, Friday, September 18. B. B. Gilbert and Co. told us there was no strike in Cripple Creek. They had a newspaper in the office, saying: 'No strike in Gold Camp; all men go to work.' At Colorado Springs we discovered there was a strike. Men with spectacles on who said they were mine lessees met us in Colorado Springs and came on with us. I stayed last night at the Rhodes house with a party of ten. We took breakfast and then went to a building near where the shooting occurred. Here there were many others. The men were lined up and an

The number of troops in the district was gradually reduced during October and November, the reports of the Adjutant showing 498 men on duty November 30th.[35]

---

officer said; 'Come on boys, go to work.' I said out loud in Spanish, 'Don't go to work.' I started to run and he fired at me with a pistol. I ran zigzag to avoid the bullet. He fired once. I got away."

The militia based its action on section 15, chapter 63, *Session Laws*, 1897. No person belonging to the military forces of the State shall be arrested on any civil process while going to, remaining at, or returning from any place at which he may be required to attend to military duties.

[35] For full accounts of the numbers and distribution of the men during the whole period of operations, see Adjutant's Report in *Biennial Report of Adjutant General*, 1903–4, pp. 127–140.

CHAPTER IV

TELLER COUNTY UNDER MILITARY RULE

Attempted Train Wrecking and Vindicator Explosion

An apparent attempt was made to wreck a Florence and Cripple Creek passenger train on the night of Nov. 14th. Spikes and fish plate bolts were removed from the rails, but the track not entirely separated, and the train passed the point in safety. Two nights later a second attempt was made at a point near Victor. The track makes a sharp curve around a projecting hillside at this place, and a train leaving the rails would roll 300 feet down a precipitious slope to the bottom of a ravine. The destruction of life in a crowded accommodation train of light coaches could not but be terrible. But the train was warned and passed in safety.[1]

Next morning detectives Scott and Sterling[2] came to the office of Judge Seeds and stated that they had received information of the intended attempt at wrecking the night before, and had watched, viewing the operation and identifying the men. They were ready they said to make informations, but were afraid the sheriff's office would in some way allow the men to escape, and asked for the issue of bench warrants which they could serve direct. Later in the day H. H. McKinney and Thomas Foster were arrested by a squad of militia, and charged with the of-

[1] General Manager Jesse Waters of the F. & C. C. R. R., in a signed interview Nov. 18th, said two men in the attempt were known and would be arrested. Referring to a report that the attempts had been made by union men, he said: "We have too much respect for Union Men to think for a moment that any of them would resort to such methods. * * * * "There were Union men aboard the train."—*Cripple Creek Times,* Nov. 18th, 1903.

[2] D. C. Scott was the detective for the Midland Terminal. K. C. Sterling was a special detective in the employ of the Mine Owners' Association.

fence. They were afterward turned over to the civil authorities.

While in jail McKinney made a written confession to detectives Scott and Sterling, in which he implicated Thomas Foster as participant, and Sherman Parker and W. F. Davis as accessories.[3] Later he made another written confession to Frank J. Hangs, the Cripple Creek attorney for the Federation, in which he denied the statements in the first confession, saying that it had been brought to him already prepared and signed under promise of $1000.00, and immunity from punishment, and transportation for himself and wife to any part of the world, and that he believed Scott and Sterling had secured the confession from him to clear their own skirts. He also wrote a letter to his wife which contained the same statements as those in the second confession.

Parker, Davis, and Foster were charged with conspiracy to commit murder, and came to trial in the District Court in February 1904.[4] The prosecution rested its case largely upon the testimony of McKinney. He now swung round again; declared his first confession to be true and the second one false, and gave a detailed story of his participation in two train wrecking attempts. Parker, he said, had first broached the matter, and finally offered $500.00 for the job. Foster had assisted him in the first attempt, and he had secured Charles Beckman to help him the second time. His testimony remained unshaken through a most searching cross examination.

Mrs. McKinney corroborated the testimony of her husband in some points. Charles Beckman testified that he had become a member of the Federation as a spy for the Mine Owners' Association, and while apparently aiding McKinney had been keeping Detective Sterling posted as to the course of events. Detectives Scott and Sterling swore that they received tips from Beckman, and had watched the men make the attempt, and

[3] The three were prominent union men. Sherman Parker was president of the district union. W. F. Davis was president of Altman union.

[4] *District Court Records*, No. 752.
People vs. Sherman Parker et al.
3 *Mills Annotated Statutes*. Sec. 1421 A.

that when they came up close to recognize McKinney the men had run away.

The defense attempted to show that Scott and Sterling, being in the employ of the mine owners, had themselves made a bogus attempt at train wrecking, and bribed and frightened McKinney into a perjured confession which should convict union officers and throw the union into disrepute.[5] McKinney on cross examination admitted making the confession to Attorney Hangs, but declared that it was a false one. He also admitted writing the letter to his wife which contained the same statements, but said he had lied. The defense showed that McKinney had been given unusual privileges at the jail, being sent out to his meals and allowed to spend some time with his wife away from the jail, and that both himself and wife had been furnished with new outfits of clothing. McKinney said he did not know who paid for the clothes and meals, but that it might have been Sterling. He denied that the detectives had promised him money or immunity from punishment, and said that they had merely promised to use their influence to secure leniency for him.

Victor W. Mather, a butcher employed in the union store at Victor, swore to having been walking along the F. & C. C. tracts upon the night of Nov. 16th going to his home, and to have come upon two men tampering with the rails. They ran away, but he got close enough to have a good look at them, and identified them upon the stand as Scott and Sterling. Engineer Rush of the F. & C. C. Ry. testified that Detective Scott had asked him where the best place would be to wreck a train, and that he had told him of the place where the attempt was made. J. C. Moore, section foreman for the F. & C. C. Ry. testified that on the morning after the attempt he went to the place where the rails had been tampered with, and found in the fresh snow the tracks of two men coming down to the railroad. There were tracks going down from the road, but the men had been running and slipping and he could not tell any-

[5] The charges in train wrecking cases were made the principal basis for declaring Teller County in a state of rebellion. See Governor's proclamation, Dec. 4th.

thing about the footprints. He measured one of the tracks above the railroad carefully, and said Scott told him it was his. There were the tracks of two men only on the hill at this point. A number of witnesses testified that Beckman had tried to persuade them to commit various acts of violence to win the strike. Others testified to prove an alibi for Foster. It was shown that a number of union men were on the train that would have been wrecked had the attempt been successful.[6]

District Judge Lewis of Colorado Springs presided at the trial, and the jury was selected from a special venire of 80 chosen from points of the county outside the mining area. Most of the jurors were ranchmen or timbermen, and none were miners or union men.[7] The jury, in about half an hour, brought in a verdict of not guilty.

McKinney on the witness stand had testified as follows:

"Q. Mr. McKinney, as I understand you, you agreed to wreck a railroad train for $500, is that correct? A. I believe so, yes. Q. And you were going to share that with your partners in crime, is that correct? A. I suppose so. Q. So that for $250 you were willing to plunge the souls of men into eternity in that way by wrecking the train; you were willing to kill men for $250, is that correct? A. Looks that way. Q. You undertook the job of killing them for $250? A. Yes, sir. Q. Now are you in that same frame of mind now that you would kill men for $250? A. I might under the same circumstances." He was either a criminal of the worst type according to his own confession, or a man who had endeavored to perjure other men to their death. Judge Lewis after the trial refused to admit him to bail. Several weeks later his case was nolled on the ground of his having turned state's evidence and his companions in the crime having been set free.[8] He was then

[6] The digest of testimony given here was made from the manuscripts of the court stenographers.

[7] Charles Matthews, John Lee, Aaron Smith, F. M. Longevell, A. S Chadwick, W. J. Lindsay, David Vaughn, C. D. Profit, J. A. M. Smith, F. E. Robinson, E. A. Eiswerth.

[8] See written brief by district attorney filed with case papers N. 752. Such proceedings are taken under the general doctrine that where a person fully and impartially discloses all of his connection with a crime for the informaton of the state, thus leadng to the detection of others, the implied faith

arrested charged with perjury,[9] but released on bond furnished by S. D. Crump, the attorney for the Mine Owners' Association, and W. M. Bainbridge, superintendent of the El Paso Mine.

On Nov. 21st, while Chas. H. McCormick, Superintendent, and Melvin Beck, shift boss, of the Vindicator Mine, were descending the shaft, an explosion occurred which wrecked the cage and killed both men instantly. The explosion took place at the 600 foot level where no work was being done, and as a shattered pistol and pieces of copper wire were found it was generally supposed to have been the result of deliberate intent. The Mine Owners' Association accused the Western Federation of Miners with causing the explosion, and offered a reward of $5,000 for evidence leading to the conviction of the perpetrator, but no such evidence was found.

The mine was under military guard at the time, and no union man was allowed to enter it. The 600 foot level was connected with other unused surface openings and might have been entered through one of these, but careful search failed to reveal any evidence of such action. Sheriff Robertson, Deputy District Attorney Cole, and employees of the mine, made a careful search of the property immediately after the explosion, and came to the conclusion that the person who took the explosives into the mine did so through the working shaft.[10]

A State of Insurrection and Rebellion

Governor Peabody held conferences during the latter part of November with officials and prominent members of the

---

of the government, although not expressed, is given to him that he shall not suffer in consequence thereof. Such doctrine is cited from various authorities by the district attorney.

[9] On information by Frank J. Hangs one of the federation attorneys. Following the deportations of June, (See chapter V.) the case was dismissed by the request of Mr. Hangs, who stated that his witnesses had been forced to leave the district.

[10] The following is the coroner's verdict, after a careful examinaton of all the evidence available:

"From examination made at the mine and the evidence introduced, this jury is unable to determine the exact cause of said explosion.

(Signed.) "John Ketellsen,
"Foreman."

Cripple Creek Citizens Alliance, and the Mine Owners' Association, and on Dec. 4th issued a proclamation declaring Teller County to be in a state of insurrection and rebellion. The proclamation recited the attempts at train wrecking, and the Vindicator mine explosion; declared a state of general lawlessness to exist in the county, and the civil authorities to be making "no practical attempt to preserve order and to protect life and property:" and concludes: "Now therefore, I, James H. Peabody, governor of the State of Colorado, by virtue of the authority in me vested, do hereby proclaim and declare the said County of Teller, in the State of Colorado, to be in a state of insurrection and rebellion."[11] Major H. A. Naylor, protected by a detail of 50 cavalrymen, read the proclamation on the streets of Victor, Goldfield, Independence, and Altman. The people assembled to hear their state of rebellion declared, and then returned quietly to their homes.

The district had been under military guard for three months, and 500 men were still in the field. A large percentage of the mines were successfully working, and outwardly at least good

[11] At the time of the proclamation not a single unserved warrant was in the hands of the sheriff. A number of men were in confinement at the county jail on charges growing out of the strike difficulties. Among them were Sherman Parker and W. F. Davis, charged with being accessories to the attempted train wrecking, held under failure to raise $30,000 bonds. Three other men were held on the same charge under $15,000 bonds, and four men held under bonds of $15,000 each, charged with causing the Vindicator explosion. All were later acquitted by the courts, or their cases nolled.

Judge Seeds in a card to the public Dec. 4th, said in part:

"At no time since the advent of the military in this district has any prisoner charged with crime by that authority been discharged or released by this court under habeas corpus proceedings or otherwise, and in all cases where discharge has been granted by habeas corpus it has been purely for lack of information authorizing or even suggesting to the court the commission of any offense or the violation of any public law on the part of the individual detained. In all other cases where either affidavit or information has been filed against such individual for the commission of any offense, he has been remanded to the custody of the sheriff of Teller County and bail fixed commensurate with the offense charged."

The two other district judges were Louis W. Cunningham, and Robert E. Lewis. Judge Lewis was a Republican, appointed by Governor Peabody and elected through the influence of the mine owners. He was a man of ability and integrity, and had full authority to sit in Teller County at all times. Judge Cunningham, a Democrat, had a wide reputation among all parties for conservative judgment, and for intolerance for crime committed under any circumstances whatsoever.

order prevailed throughout the district. The declaration is most surprising under such circumstances. Governor Peabody explained in interviews that his only intention had been to establish a limited martial law to enable the militia to hold men who had been released by the civil courts "on flimsy or whatever pretexts."[12]

But the military authorities did not interpret their power to lie within any such narrow limits. General Bell issued a statement on December 5th, of which paragraphs are quoted.

"The County of Teller, in consequence of the occupation of the militia, is subject to the supreme military authority and control when necessity requires and occasion demands, and it becomes necessary to suspend, in part or its entirety, by the occupying military authority, of the criminal and civil law and of the domestic administration and government in the occupied place or territory, and in the substitution of military rule and force for the same, as well as in the dictation of general laws, as far as military necessity requires this suspension, substitution or dictation.

"The militia may proclaim that the administration of all civil and penal law shall continue either wholly or in part as in times of peace, unless otherwise ordered by the military authorities.

"As martial law is executed by military force it is incumbent upon those who administer it to be strictly guided by the principles of justice, honor, and humanity—virtues adorning a soldier even more than other men."

Lieutenant Libby, adjutant of the district, proclaimed Teller County to be "in possession of the military forces of the State

---

[12] From interview published generally in Colorado papers Dec. 6th. "There has been no provost-marshall appointed, nor will there be any. The same holds good with the provost court, about which I have read. The civil courts will continue as they have of old; likewise the civil authorities. The military is authorized to overstep them only in certain instances. The only purpose of the establishment of the qualified martial law is to hold men who have been released by the civil courts on flimsy or whatever pretexts. It is only in the case of such persons that the writ of habeas corpus will be suspended. The press will not be molested any more than it has been since the beginning of the strike."

of Colorado * * * The military district commander will therefore cause the county to be governed until the restoration of municipal authority." The assemblage of people in the streets either by day or night was forbidden; all persons were warned to surrender their arms or munitions of war of any kind to the military commanders upon penalty of imprisonment; and it was declared that no publication reflecting upon the government of the State of Colorado or "upon the action or actions of the military forces of the State of Colorado" would be permitted.[13]

Having made their proclamations the militia officers proceeded to act. Military camps were formed in the various towns and cities. The local police officers were deposed, and their places taken by militiamen, who patrolled the streets night and day. Major Naylor proceeded to the office of the Victor *Record* and informed the editor that a censorship had been placed upon his paper. He was instructed to print only ordinary news items. Articles criticising the militia or state administration were forbidden, and the official statements of the miners unions were to be barred. The editorial already prepared for the next morning was ordered stricken out, and the paper appeared with the space blank and black margined.[14]

---

[13] Extract from proclamation:

All persons in possession of arms, equipments and munitions of war of every description are required to surrender the same on or before 12 o'clock noon, Tuesday, December 8, 1903, to the military district commander, taking his receipt for the same. Any person or persons failing to surrender the said arms, equipments and munitions of war shall be arrested and confined in the military prison and further punished as occasion may require.

No publication, either by newspapers, pamphlets, or handbill, reflecting in any way upon the United States and the State of Colorado, will be permitted, and all articles of news or editorial comment or correspondence, making comment upon the action or actions of the military forces of the State of Colorado or of the organization above referred to will not be tolerated.

All assemblages of people in the streets, either by day or by night tend to disorder, and are forbidden.

The proclamations, cards, and orders of this time are to be found in full in the *Special Report of the Labor Commissioner*, *Senate Document* No. 122, 58th Congress, 3rd Session, p. 207 and following.

For the Official Military Orders see *Report of Adjutant General* for 1903–4, p. 113 and following.

[14] The suppressed editorial is here given in full.

"Martial law has been declared in Teller County. The proclamation was issued at noon yesterday by Colorado's governor. The reasons given by the

Arms were received in considerable numbers, some registered and returned, some kept.[15] It became apparent immediately

---

governor are principally that the court and officials in this county have not and will not enforce the law. Those are the reasons given by Peabody for publication, but the *Record* believes that the real reason is that the troops, under their past course, have failed to break the strike, at least, in a manner satisfactory to the mine owners of the district.

"It is our opinion that a larger bull pen will be established and that within a few days every labor leader and every man who cannot give a good excuse for not being at work will be arrested and confined in the bull pen.

Words cannot be found strong enough to condemn this action on the part of the governor. Many people believe it to be political. It is stated that if this was a Republican county there would have been no martial law here, and the *Record* believes that this statement is right. The proposition is to drive all the people out of this county who are not in accord with the present State administration. If you will note the arrests that will follow this proclamation of Governor Peabody you will find that that statement will be verified. Men in the past and since the strike begun have been arrested, it is our belief, because some enemy of theirs was near enough to the powers to have it done, but not a single administration enthusiast has been arrested.

"The *Record* believes that this is a shame on the courts of this county Judge Seeds has done all that a judge could do and has given the' mine owners all that any reasonable people could ask for. How much more bonds will they ask for than $15,000, as in the case of Sherman Parker and others confined in the county jail? The sheriff of this county has been as active as any sheriff could be. If the blowing up of the Vindicator mine was malicious, why didn't they capture the men or, if they have the right man, what is the necessity of declaring martial law? If they have the evidence, those men can be convicted without any extreme exertion. The *Record* believes in the full enforcement of the law and it stands ready to condemn any official who does not do his honest duty, but we object to the name the governor of this State and his advisers seem determined to give the Cripple Creek district.

"Talk about tyranny! Where can you point to more tyranical action than that which has been practiced by the military since they were sent to this district? The *Record* does not know at this time how far it will be allowed to express its opinion under the reign of military law, but we purpose to proceed just as if we lived in free America. We want to do justice to everybody and propose to do that to the best of our ability. We realize that Peabody is governor and under the law we must respect his order, and are willing to because it is law, but until the order is issued that citizens and newspapers can not express their opinions we will proceed in the paths of justice as we construe it."

[15] GENERAL ORDERS

No. 1.

For the information of those concerned, the following paragraph, an extract from proclamation, dated these headquarters, December 5, 1903, is referred to:

"All persons in possession of arms, equipments and munitions of war of any description are required to surrender same on or before twelve o'clock, noon, Tuesday, December 8, 1903, to the Military District Commander, taking his receipt for same. Any person or persons failing to surrender the said arms, equipments and munitions of war will be arrested and confined in military prison and further punished as occasion may require."

And the following instructions are promulgated:

"That all persons, who by virtue of holding warrant as a police officer,

that the intention was to disarm only members of the unions or their friends. The Federation officers issued a circular declaring that the constitutional right to bear arms could not be questioned, and advising the men not to give them up.[16] The men concealed their weapons and kept them, and the militia made frequent forays and searches in the endeavor to get them. John M. Glover, a Cripple Creek attorney, former congressman from Missouri, issued a letter through the press defying the militia to take guns from his office.[17] Colonel Verdeckberg immediately ordered his arrest. A military detail went to the office and finding it locked started to tie the door with the intention of starving Glover out. Thinking that an attempt was being made to break in Glover fired through the bottom of the

---

marshal, constable, sheriff or deputy sheriff, or persons employed as watchmen over property, may be granted permit to carry arms, ammunition and equipments in the discharge of their lawful duty, by the Military District Commander upon presentation of credentials acceptable to him and upon the delivery of such arms, ammunition and equipments for registration at a place designated, which is, until further orders, at his headquarters at Camp Goldfield, Victor, Colorado.

"Any person or persons selling, loaning or in any way distributing any arms, ammunition or equipments shall, before the execution of such sale, loan or delivery, present these said arms, ammunition or equipments, together with the credentials of the party to whom it is to be sold, loaned or delivered, as above prescribed.

"Citizens may, upon presentation as above stated, be permitted to have and to keep at their homes, or at their place of business, weapons for defense when it may appear such is necessary in the protection of life and property in the judgment of the Military District Commander.

"By order of Colonel Verderberg.

"H. M. Libby,
"First Lieutenant and Adjutant First Infantry,
First Brigade, N. G. C., Adjutant of the
District."

[16] " * * * * we have conferred with eminent councel in regard to the matter, and herewith enclose a copy of their opinion, by which you will see that no one, whether members of the state militia or not, has the right, forcibly or otherwise, to take from you firearms, and if they do so, it is at the peril of their lives."

This was enclosed with a legal opinion by attorneys Richardson & Hawkins of Denver, based upon the following section of the *Colorado Constitution.*

Article II, Section 13. That the right of no person to keep and bear arms in defense of his home, person and property, or in aid of the civil power when thereto legally summoned, shall be called in question, but nothing herein contained shall be construed to justify the practice of carrying concealed weapons.

[17] For copy see *Adjutant's General's Report,* p. 117, also Col. Verdeckberg's *Report,* same.

door. The guardsmen answered with a fusilade, and Glover, shot through the left arm, surrendered.

The following order was issued on Dec. 30th.

"Any person able to work and support himself in some honest and respectable calling who shall be found loitering or strolling about, frequenting places where liquor is sold, begging or leading an idle, immoral or profligate course of life, or not having any visible means of support, shall be deemed a vagrant.

"Notice is hereby given that from and after January 7, 1904, all vagrants as hereinbefore defined, who shall be found within any of the cities and towns or any part of Teller County, Colo., will be promptly arrested by the military authorities and dealt with according to law.

"All persons within the said territory who fall within the above definition of a vagrant are hereby given until the above mentioned date within which to become engaged in some honest and lawful pursuit, after which they will be taken into custody without further notice."[18]

The Federation officers posted placards declaring that the militia could not carry out such an order, and urging the men to stand upon their rights. Judge Seeds of the district court granted an injunction restraining the National Guard from deporting or sending out of the district any members of the Western Federation of Miners. On Jan. 8th Colonel Verdeckberg called the union officers to a conference, and said that the militia did not intend to molest union men so long as they obeyed the laws and did not stir up trouble.

Military rule was followed by more general arrests of union men. Details need not be given. Nearly every union officer, or union man who made himself disagreeably prominent, found his way to the "bull pen." Some were kept only for a short time, others to the number of over 20 were released on writs of habeas corpus granted by Judge Seeds. Governor Peabody announced the writ of habeas corpus suspended in the case of Victor Poole, and the militia refused to honor the writ issued

[18] *Biennial Report, Adjutant General*, p. 116. "On December 30, 1903, all unemployed men were notified to leave the district, in a proclamation issued by the Military District Commander as follows: * * * * " (See above).

by Judge Seeds. An appeal was taken to the Supreme Court, but a final decision avoided by turning Poole over to the civil authorities.[19] The submission of the militia to the courts was still more apparent than real, however. The men released under habeas corpus proceedings were rearrested at pleasure, and thus a heavy check kept upon the activity of the unions.

Squads of militia forcibly entered union meetings and took away men. James A. Baker, a member of the executive board of the Federation from Rossland, B. C., came to open a cooperative store in Goldfield. Colonel Verdeckberg told him another store was not needed, and gave him his choice of leaving the district or being imprisoned. M. E. White of the executive board of the American Labor Union was arrested immediately upon his arrival at Cripple Creek, confined two days, and then deported, warned never to return again. Five men were arrested on Jan. 9th charged with being agitators and having no legitimate means of support. They were imprisoned for a week, and then deported. The house of Mrs. Mart Morrison was searched, and she was compelled to walk to Victor, where she was released.[20]

The conditions for disinterested citizens became at times almost unbearable. Some of the lower officers, drunk with their temporary power, exercised an authority that amounted to petty tyranny on every possible occasion. If one man had a grudge against another he had only to report him to the military authorities as an agitator to secure his arrest. If a man were overheard making disparaging remarks concerning the militia he was promptly hustled off to the "bull pen." There is food for thought in the summary of the situation which one of the officers gave to the author: "If a man kept his mouth shut he was all right." It became a question whether one could go along the street without being molested. A drunken militiaman was a common sight. Women were warned to stay on one side of the way, and all but ridden down when they insisted upon

[19] Poole was tried on January 9, 1904, on the charge of assault with intent to kill, but no witnesses appeared against him, and he was discharged.

[20] A large number of other arrests were made upon charges of drunkenness, disorderly conduct, abuse of patrols, etc. For detailed list see *Biennial Report, Adjutant General*, pp. 178–186.

crossing. Teachers were stopped and turned back when on the way to school. Sentries stationed near the Cripple Creek High School sought to flirt with the students through the windows, and threw notes into the building.[21]

The Mine Owners' Association issued a statement in March, of which the following is a part:

"The avowed purpose of this association is to drive the disturbing and dangerous element of the Western Federation of Miners from the district and from the state, if possible, and we call upon all non-union miners and the citizens at large to assist us in this effort. The welfare of the district demands this, and it is equally imperative that the non-union miners and all honest citizens cooperate with this association to secure the election of public officers who will stand for law and order on all occasions.

"In view of all these considerations, and with the determination to eliminate all dangerous characters, it is our purpose to establish a central bureau of employment, which shall receive and act upon all applications for work in all the mines connected with this association. This method will secure good and steady employment for all good workmen and decent citizens, and will throw out all those who are in harmony with the unlawful methods adopted by the Western Federation of Miners on so many occasions."[22]

This was followed by the adoption of the card system, which

[21] The above incidents are taken from a number of accounts by non-partisan and indisputable witnesses. Too much must not be said, however, that would seem to heap condemnation upon the whole rank and file of the state militia. It was not of their own wills that they left their homes and occupations to spend rough, uncomfortable months in the mining camps, but in necessary obedience to the orders of their superior officers. Many of them were union men, and hated the thought of being called out against workmen. This side of the case found little recognition among the striking miners, and they heaped abuse, and curses, and petty insults upon the militia men from the start. When opportunity came for retaliation it was simply human nature to make payments with interest. The large majority of the men were gentlemen. They indulged in the "horse play" which always develops when a crowd of young fellows are thrown together for some time, but this must not be classed with such acts as related above. It is a misfortune of the whole Cripple Creek difficulty that every class concerned seems to have to be judged by its worst members.

[22] *Official Published Statement of the Mine Owners' Association,* March 10, 1904.

prevented any member of the unions from obtaining employment in the mines or mills of the district.[23]

The Federation at about the same time issued a flag poster which was widely distributed. The United States Flag was printed in the correct colors, with an inscription in black letters on each stripe. The inscriptions read as follows:

"Martial Law Declared in Colorado!

Habeas Corpus Suspended in Colorado!

Free Press Throttled in Colorado!

Bull Pens for Union Men in Colorado!

Free Speech Denied in Colorado!

Soldiers Defy the Courts in Colorado!

Wholesale Arrests Without Warrant in Colorado!

Union Men Exiled from Homes and Families in Colorado!

Constitutional Right to Bear Arms Questioned in Colorado!

Corporations Corrupt and Control Administration in Colorado!

Right of Fair Impartial and Speedy Trial Abolished in Colorado!

Citizens Alliance Resorts to Mob Law and Violence in Colorado!

Militia Hired by Corporations to Break the Strike in Colorado!"

On the large posters there was also a picture of Henry Maki, a union miner of Telluride, as he had appeared on March 2nd shackled to a telephone pole because he refused to work upon the streets as ordered by the militia. Several paragraphs of comment accompanied the picture, and at the top was the question: "Is Colorado in America?" President Moyer was arrested for the publication of this poster, charged with desecrating the American flag, and the military authorities refused to release him upon the order of the courts. The famous Moyer Habeas Corpus Case was the result.[24]

---

[23] The manager of the Dorcas Mill was notified in December, 1903 that his mill would be boycotted unless he discharged all union men in his employ. The plant then became strictly non-union.

[24] Secretary Haywood was tried before Justice Hynes of Denver on the same charge. The decision was for defendant.

The citizens of the Cripple Creek District remained quiet, orderly, and self-contained during the period of military rule. The movements of the militia itself formed the only evidence of a condition of "insurrection and rebellion"[25] The troops were gradually withdrawn beginning with the 11th day of December, and by January 16th only 170 men were on duty.[26] This number was reduced to less than 100 early in February, and all the men were finally withdrawn on April 11th.[27] The conditions were not by any means satisfactory. Most of the mines were hampered from lack of men, and running with inexperienced men was proving expensive. But the mines were all being operated in some fashion, and the strike appeared to be at an end.

---

[25] The Western Federation issued a proclamation on March 12. One paragraph is given.

"We wish once again to call the public's attention to the fact that the Western Federation has at no time made any demand of the mine owners of the Cripple Creek district other than that they withdraw their patronage from the mill trust in order that living conditions might be secured for the employes of said mills."

[26] EXECUTIVE ORDER.

Whereas, On December the fourth, 1903, I did issue my proclamation declaring the county of Teller, in the State of Colorado, to be in a state of insurrection and rebellion; and,

Whereas, Since that date the conditions within said county have been, and are, rapidly changing, and peace and good order in said county are being fully restored, and it has been shown to me that the civil authorities are able and willing to control the situation, to perform their legal functions and to enforce the law; it is, therefore,

Ordered, That the further application of military authority under such proclamation shall be, and hereby is, suspended, and the provisional detachment now in Teller county will act in support of, and in subordination to, the legally constituted civil authorities of said county, and for the purpose of carrying out this order and to enable the civil authorities to enforce obedience to law and to protect life and property, a suitable detachment of the National Guard of Colorado will remain in Teller county, under command of Colonel Edward Verdeckberg, until further orders.

This order to become operative and to be in force and effect from and after Tuesday, February 2, 1904, at 10 o'clock a. m.

Given under my hand and executive seal this twenty-eighth day of January, A. D. 1904.

(Signed) JAMES H. PEABODY,
Governor and Commander-in-Chief.

See *Biennial Report Adjutant General* 1903–1904, p. 134.

[27] February 20th, the number of men was 2. *Report of Adjutant* in *Biennial Report of Adjutant General*, p. 135.

CHAPTER V

THE FINAL CRISIS

The Sixth Day of June. Independence Explosion and Riots

The town of Independence lies in a deep valley, some half a mile from Victor and just below Altman. The station of the Florence and Cripple Creek Railroad stands high up on the hillside in the area where many of the finest mines of the district are located, and where mining operations have for all the district been most concentrated. The mountain roughness is more than usually evidenced here in steep hillsides and broken contours. Dumps from the mines form an enormous disorder through which the railroads tunnel, over which they run, and against the encroachments of which they scarcely protect by constant "riff raffing." Poorly lighted, gloomy, full of pitfalls, abounding in chances for secret work and concealment,—it is a spot peculiarly suited to the perpetration of crime and deeds of darkness. It is in a sense at the heart of the mining industry.

Many of the mines change shifts at two o'clock in the morning. It is the "grave yard" shift that goes on at this midnight hour, and the railroads furnish special cars to take the early night shift men to their homes. The F. & C. C. R. R. train is due at Independence station at two fifteen. On the morning of June 6th it whistled for the station; the platform crowded with men from the Findley Mine; then there came a fearful explosion, and the air was filled with flying earth, and timbers, and the dismembered bodies of men. Where the platform had stood was a yawning hole in the ground, and the station was wrecked and broken, its floors blown up, its walls smashed in, great holes torn through the heavy roof. Men were blown 150 feet straight up the hillside and mutilated beyond recognition.

Thirteen men out of twenty-seven were killed outright, and the smashing upward blow made six amputations necessary. At noon the next day men were still picking up bits of flesh and bone in tin pails. The men from the Shurtloff mine escaped by being a minute late. They were running for the station when the explosion took place.

Word was at once sent to James S. Murphy, the manager of the Findley Mine, to A. E. Carlton, its principal stock holder, and to Sheriff Robertson. At 3 o'clock a special train left Cripple Creek bearing the above named men, deputy sheriffs, doctors, and nurses. The space around the depot was roped off and search begun immediately for clues. The broken pieces of a revolver were found nearby, and about 200 feet of wire running to one of the nearby dumps, where its end was attached to a chair rung. A telegram was sent to Canon City asking for bloodhounds.[1] The bodies of the men were removed to the coroner's office at Victor. The Cripple Creek District military companies were ordered to collect at once at the armory at Victor, where Major Naylor took charge.

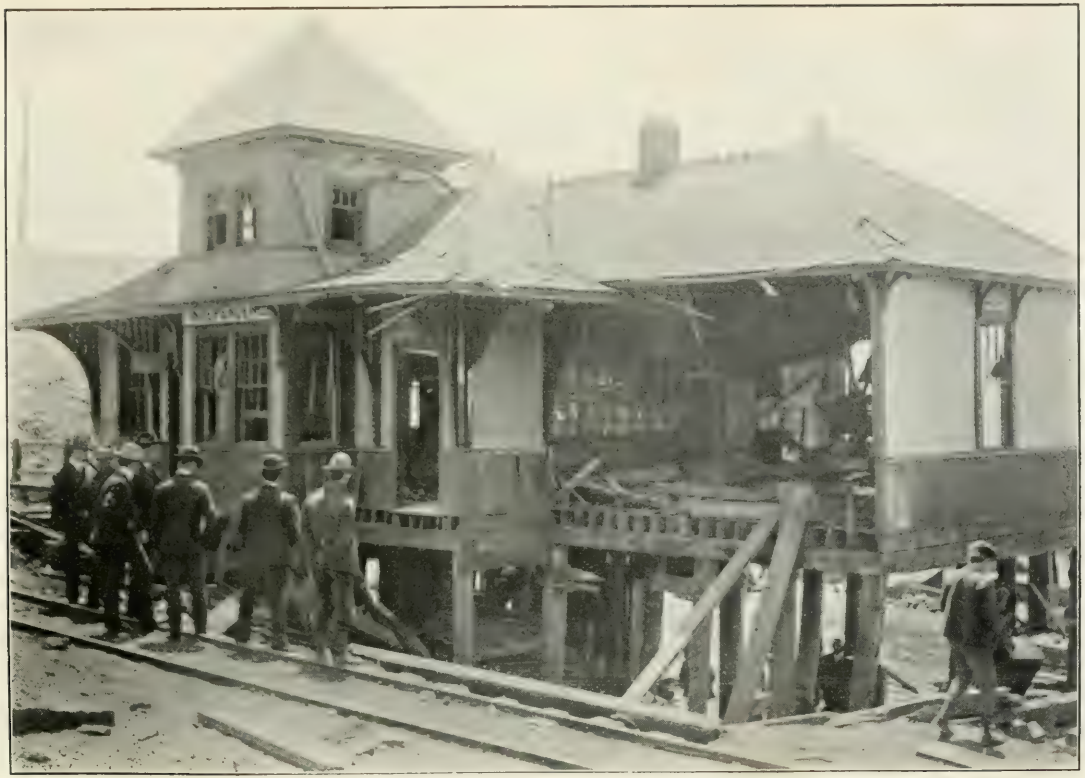
The news of the explosion spread rapidly in the early morning and created the most intense excitement. Most of the mines shut down, few of the men even reported for work, business was generally suspended, and excited groups held discussions everywhere. By common consent the explosion was attributed to the Western Federation, and the most ugly rumors were in the air—the officers of the unions were to be burned at the stake—every union man was to be driven from the district. Union men and non-union men alike armed themselves to the teeth, and prepared for whatever should happen. The situation seemed of its own accord to center around Victor. General reports went out of a mass meeting to be held there, trouble was expected, and groups of men went constantly in that direction.[2]

---

[1] There have been various accounts of what the bloodhounds did when put upon the trail, but they succeeded in accomplishing nothing.

[2] The annual convention of the Western Federation of Miners, being in session at Denver at the time, passed the following resolution.

"No. 87. Whereas, A crime has been committed in the blowing up of the Golden Circle depot in the Cripple Creek District, we, the delegates of the



Independence Depot, Where Fifteen Men Lost Their Lives.

At about 9 o'clock, Manager Murphy of the Findley Mine and Major Naylor, of the militia, called at Coroner Doran's office, and forced him to allow the removal of the bodies to the undertaking parlors of J. H. Hunt. The reason given was that Coroner Doran was understood to have spoken of the explosion as "an accident." Later in the morning the county commissioners held a special meeting at Victor. It was decided that Sheriff Robertson was too weak a man to handle such a serious situation, and that he ought to leave the county and let stronger hands be in control. Accordingly when the sheriff came over from Independence he was met by the commissioners, who insisted that he should leave. He consented and started for the train. But members of the Mine Owners' Association and Citizens Alliance had held a meeting meanwhile and decided upon drastic measures. Their committee met the sheriff and took him to the armory. Here a written resignation was presented for his signature, and upon his refusal a noosed rope was shown him, several shots were fired outside, and he was told that he would be turned over with the rope to a mob that was forming. Then the sheriff signed the paper giving up his office.[3] Marshall O'Connell of the city, attempting to interfere and disarm the mine owners, was kicked out with no great gentleness.

The county commissioners immediately appointed Edward Bell sheriff. He had been Robertson's opponent for nomina-

twelfth annual convention of the Western Federation of Miners, deplore the act as a most dastardly crime and condemn the perpetrators thereof as enemies of the Western Federation of Miners and organized labor in general, and an outlaw at large; and,

"Whereas, The Secretary of the Mine Owners' Association has sought to use the sentiment created by this disaster to drive all union men out of the district, and in consideration of the above statement, be it

"Resolved, That we, the delegates of the twelfth annual convention, assembled, hereby offer a reward in the sum of $5,000, to be paid on the arrest and conviction of the perpetrators of the crime.

"Denver, Colorado, June 7, 1904."

[3] On July 1st. Mr. Robertson wrote a letter to the board of county commissioners demanding that they recognize him as sheriff. Later he made written demand upon Sheriff Bell for the surrender of the office, saying that he had been forced to sign a resignation, and that the board had been forced to accept it, and that he was still legally in office. These letters receiving no recognition he returned to the district and made some personal efforts to secure the office. but without success.

tion on the Democratic ticket at the previous convention, and was considered a strong man for the position.[4] Bell immediately discharged under-sheriff Burton, and appointed in his place L. F. Parsons, the secretary of the Citizens Alliance. A large number of deputies of the mine owners' choosing were also appointed.

It became more and more apparent that the situation was exceedingly serious, and that a false step might precipitate a reign of terror at any minute. The county commissioners felt strongly that a mass meeting while feeling ran so high could not but result in trouble, and they requested the mine owners to give up their intention of holding the afternoon meeting at Victor. This the mine owners committee agreed to do, but failed to keep its word.

At the corner of Fourth and Victor Avenues, almost at the center of the business portion of the city of Victor, there is a large vacant lot. A hillside has been excavated to allow it to run well back, and buildings of considerable size complete the boundry of its two interior sides. It thus forms a natural amphitheatre. Across the street on one side in the summer of 1904, was the union store, and across the street on the other, the miner's union hall. It was for this place that the mass meeting was reported, and people began to gather there early in the afternoon. Marshall O'Connell of Victor hastily appointed about 100 union men as deputy policemen, armed them, furnished them with badges, and lined them up on three sides of the square. The purpose was apparently to prevent or break up the mass meeting. Mayor French sent for O'Connell, and after a heated interview removed him from office, and revoked the commissions of his deputies. Major Naylor was immediately appointed Marshal. The deputies removed their badges and dispersed.

The crowd at the corner of Victor and Fourth Avenues con-

[4] Edward Bell and General Sherman Bell are not related. Edward Bell was appointed assessor by the Democratic Governor when Teller County was created, and was an unsuccessful candidate for nomination to some office in every succeeding convention. He had become prominent in the Citizens Alliance. After the strike he joined the Republican party, and was elected to office by that party in November, 1904.

tinued to grow, and groups of armed and angry union and non-union men added to the number constantly. About 3 o'clock Sheriff Bell, C. C. Hamlin, Secretary of the Mine Owners' Association, and S. D. Crump, the Attorney for the Association, came to the square.[5] Secretary Hamlin mounted an empty wagon, and began a speech which from the first became violent, unrestrained, with judgment and caution thrown to the winds, of a kind that could not but arouse to frenzy men whose passions were already deeply stirred. He had just denounced the union miners as a gang of cutthroats, membership in whose order was a badge of murder and arson, and declared that if the civil authorities could not reach them the people should take the law into their own hands, when a man in the crowd shouted out an angry question. Immediately someone struck him in the face, and a fist fight started. One man drew a revolver and struck another over the head with it. A single shot was fired. Then there came a fusilade of shots; a bedlam of cries and oaths; and everywhere the confusion of people falling and rushing to places of safety. When the firing ceased five men lay on the ground, two of them fatally wounded.[6]

The wonder is that twenty men were not killed instead of two. The square was packed with people, and such was the height of passion that men were seen to draw their revolvers and fire simply at random into the crowd. The square was promptly cleared, many of the union men retiring to their hall.[7]

---

[5] The narrative of the riot is taken from the accounts of several non-partisan eye witnesses. One of them, a Cripple Creek business man, stood upon the high bank just behind the wagon, where he could observe every detail. McGee was standing beside him when shot down, and he is of the opinion that the bullet was meant for Secretary Hamlin.

[6] Roscoe McGee and John Davis killed. The men killed and wounded were all non-union miners. Peter Christman shot through the mouth, Fred Studewass, shot through the lungs, J. J. Hasner shot through the back.

[7] The reports from the coroner's inquests upon the Independence explosion and Victor riots should be read with due regard to the extreme partisan nature of the juries. The juries appointed by Coroner Doran were discharged after he was forced to resign, and new ones impanelled from among mining men and members of the Citizens Alliance. The verdict upon the Independence explosion was as follows: "We further find . . . that said crime is one of similar crimes designed and executed in the Cripple Creek District during the past few months and perpetrated for the purpose of killing and intimidating non-union men and thereby preventing them from working; that said crimes are the result of a conspiracy entered into by certain members of the Western Federation of Miners

The militia hurried up from the armory immediately after the shooting. A line of men was stationed around the union hall, and squads of men placed upon adjacent buildings which commanded the windows of the hall. Sheriff Bell, accompanied by Postmaster Sullivan of Cripple Creek, entered the hall and demanded that the men disperse, but this they refused to do, saying that the hall was their home. Postmaster Sullivan had witnessed the shooting of Davis, and recognized in the hall the man who had fired the shot. The militia demanded that the miners surrender. The miners refused. The militia then commenced firing upon the hall, pouring volley after volley into the building, smashing glass and brick, and tearing up the interior.[8] Finally, with four men wounded, the miners surrend-

---

and known, incited, and furthered by certain officers of that organization." However strong the inference may have been against the federation it could have been only an inference, for no evidence was found to even bring to trial any individual for the commission of the crime.

The report on the Victor riots reviews the events of the day, and declares that a body of 90 armed union men were collected in the afternoon "to commit acts of violence, to override the law, and to take human life." Being dispersed by the sheriff "about 50 in number secreted themselves in and upon a building in said city used and occupied for the miners Union Hall. That certain other members of said mob stationed themselves at different points on the streets and other places in said city, including the stores operated in the interests of said Western Federation of Miners. That the riot was started by a member of the said mob . . . when he attempted to shoot and kill C. C. Hamlin . . that thereupon many shots were fired, principally by the members of said mob, both from the front windows and roof of said union hall and from the front part of said union store and different points in the street, and that certain of such shots took effect as herein above stated, causing the death of said Roscoe McGee and John Davis.

That it was the evident intention of the leaders and members of said mob, as shown by the testimony and their own declaration, to shoot down and take the lives of citizens, called by them the mine owners.

We further find from the evidence that the officials of said Western Federation of Miners are primarily responsible for the crimes committed as aforesaid."

The jury examined a large number of witnesses concerning shooting from the union hall. Several testified that they had seen men with guns in the windows of the hall, but that none of them were seen to aim or fire. George Scott, an insurance man, testified to having see a man with a Winchester fire two shots from a window of the hall. The physicians who attended McGee and Davis all swore that the course of the bullets had been slightly upward, so these shots could not have come from above.

(From typewritten copy of testimony before coroner's jury.)

[8] From the account of the Adjutant General (*Biennial Report Adjutant General* 1903-4, p. 224). This account adds that a second messenger, sent to warn the miners that firing would be commenced upon them if they did not immediately surrender, was fired upon. "A few shots were returned from the hall * * * probably in all there were 200 or 250 shots fired."

ered and were placed under arrest.[9] No sooner were they gone than a mob rushed in and completed the wrecking of the interior, smashing the furniture, and tearing up the volumes of the union library.

Bodies of soldiers, deputies, and armed citizens, scattered throughout the district, arresting union men wherever they were to be found. By night about 200 men had been arrested and placed in hastily located "bull pens."[10]

The excitement at Cripple Creek grew more intense as night approached. The report from Independence in the early morning stunned the community for the moment. But as the mines closed, and the men came into the city to be idle for the day, a great wave of feeling went forth, which grew and grew with each fresh report and rumor, until the late afternoon bringing distorted news of the Victor riots found a situation that was fast reaching the limit of control. Darkness saw thousands of people collected on the main streets of the city, and excited groups of men rapidly collecting into a mob. The police were powerless. Prominent Citizens Alliance men took the lead. The union hall was entered and utterly wrecked, its furniture and ornaments smashed up, its books destroyed and its walls defaced and smashed in. The union store was broken into, and its stock thrown into the street, oil poured among the provisions, and part of them carried away. The other cities of the district saw similar scenes of violence. By midnight not a union hall or store in the whole county but had been more or less completely wrecked.

Next morning the intense excitement of the day before had gone, but in its place was a grim determination. The Western Federation of Miners was held responsible for the disasters, and it must go. A meeting of prominent mine owners and members of the Citizens Alliance discussed the situation, and determined that the undesirable members of the community should be driven away or expelled. No half way measures were

[9] The four wounded men were: Thomas McManus, Arthur Parker, Ed McKelney, Peter Calderwood.

[10] Most of the men were imprisoned in the Victor Armory. About 150 men were under guard there. See *Adjutant General's Report*. p. 224.

to be taken. Refusal to renounce membership in the Federation and take out a mine owner's card was to be absolute evidence of undesirability. A commission of seven was appointed to examine and pass upon prisoners brought before it.[11] At five o'clock in the afternoon 25 union men, under the guard of deputy sheriffs, were put aboard a train and sent out of the district.[12] No charges were made against them, and many of them had been told that they could remain if they would give up their allegiance to the Federation.

The Annihilation of the Unions

Lieutenant Governor Haggott, in the absence of Governor Peabody from the state, issued a proclamation again declaring Teller County to be in a state of insurrection and rebellion.[13]

---

[11] "Judge" H. McGarry, Chairman.
N. Franklin, Former Mayor of Victor.
F. M. Reardon, Post Master Victor.
Mayor F. D. French of Victor.
J. B. Cunningham.
G. E. Copeland.
T. J. Dalzell.

[12] For a complete list of the names see *Biennial Report of Adjutant General* 1903–4, p. 225.

[13] PROCLAMATION.

WHEREAS, There exists in Teller county, Colorado, a large number of armed persons acting in conjunction with a large number of persons outside of that county, who are fully armed and acting together for unlawful purpose; and,

WHEREAS, Open riot and insurrection now exist in said county of Teller and felonies and murders have already been committed by such persons, who are still threatening to committ murder and felonies, and are offering violence to the citizens and property of said county, and are resisting the laws of the State of Colorado; and,

WHEREAS, At divers and sundry other times various crimes have been committed in said county of Teller by and with the aid and under the direction of said vicious and lawless persons and the security of persons and property is now threatened in said county; and,

WHEREAS, Threats, intimidation and violence are threatened and it is believed will be resorted to by said lawless class of individuals; and,

WHEREAS, It is represented to me by the sheriff of said Teller county that the civil authorities within said county are unable to enforce the law and to secure peace and order in said county, and that it is necessary to put the military in said county for the purpose of enforcing the law and restoring peace and order;

Now, therefore, I, Warren A. Haggott, Acting Governor and Commander-in-

General Bell arrived at midnight of the same day, and immediately took command. Sheriff Bell recognized the general's authority as supreme, and the two worked in complete harmony in the measures that followed. The first act was to dispatch a party of militia and deputies to Dunville, a new Freemont County mining camp about 12 miles from Victor, where one man was killed and fourteen others brought back prisoners to Cripple Creek.

On the night of June 8th the plant of the Victor *Record* was completely wrecked. Eight men entered the press rooms, and holding up the employees with rifles and revolvers, smashed up all the machines with sledge hammers, and scattered the type about the floor. In the morning the *Record* had published an editorial advising that the strike be called off. The editorial contained near the end the following paragraph:

"The *Record* will stand in the future, as in the past, ready to condemn all lawlessness. It has no respect for the actions of a Sterling or a Scott, or for such speeches as was made by Mr. Hamlin, Monday, or for the miners' resistance at Miners Union Hall, and it will not hesitate to condemn them, just as it will the work of the dynamiter when he is found. The *Record* does not have the confidence of the mine owners, of the military, or of the Citizens Alliance, and it makes this plea solely in the interest of the men and women of this district that are without work, without money, without food, and that believe there is no hope of winning the strike and want it called off."

There was some opinion that the wrecking was done by members of the unions angered at the changed tone of the paper. The *Record* employees declared however that they recognized two of the men as members of the Citizens Alliance. When the *Record* undertook to continue its publication, having been offered the use of the *Star* press, the owner of the *Star* was informed by

---

Chief of the military forces of the State of Colorado, by virtue and authority in me vested, do hereby proclaim and declare the said county of Teller in the State of Colorado, to be in a state of insurrection and rebellion.

In testimony whereof, I have hereunto set my hand and caused the great seal of the State to be affixed at Denver, the State capital, this 7th day of June, A. D. 1904.

(Signed) WARREN A. HAGGOTT,
Acting Governor.

the Citizens Alliance that he would be boycotted if he did not withdraw his assistance. The *Record* management later presented a bill of damages against the state for $1,206 (including loss of 9 days business at $75 per day), which was paid.[14] When it resumed publication the *Record* announced that it had buried the past, and would support the new order.

The resignation of Sheriff Robertson was but the first of a large number of resignations among the civil officers, forced by threats and actual violence, by committees of the Mine Owners' Association and Citizens Alliance. The list included county officers, Coroner James Doran, and Deputy District Attorney J. C. Cole; of Cripple Creek, Justice C. M. Herrington,[15] Marshal W. J. Graham, and Night Marshal Fred Harding; of Victor, Justices R. L. Thomas and David Kelly, Police Judge Michael Gibbons, Alderman J. W. Murphy and J. J. Tobin, Jailor James Printy, and Night Marshal Michael Lamb, and of Anaconda, the marshal and several members of the city council.[16] The most extreme case was that of the town of Goldfield, where the entire city government was overthrown. All six of the aldermen, the whole police force, city clerk, treasurer, and street

[14] The itemized account was as follows:

To linotype supplies	2,264.00
Additional linotype supplies	46.00
Cylinder press supplies	250.00
Job press supplies	85.00
One job press	225.00
Labor, press machinist	125.00
Additional labor on presses	50.00
Folder repairs	25.00
Paper cutter repairs	60.00
Type, material, stones, etc	350.00
Typewriter	45.00
Clock	6.00
Nine days business	675.00
	4,206.00

The *Record* had been a most active critic of the Peabody administration, the militia and the Citizens Alliances. After the resumption of its publication and the payment of its damage bill by the state, it became a supporter of the administration and the Alliances.

State Auditor's Certificates of Indebtedness Nos. 6338, 6339, 6340. Issued Nov. 10, 1904.

[15] The Board of County Commissioners refused to accept Mr. Herrington's resignation and he continued in office.

[16] *Report of Adjutant of District* in *Adjutant General's Report*, p. 228.

commissioner were driven out, most of them put under military arrest, and officers practically chosen and given authority by the Citizens Alliance put in their stead.[17]

Frank J. Hangs, a prominent attorney of Cripple Creek, local attorney for the Western Federation of Miners, was arrested and held for some time, and his house searched for papers. The resignation of Frank P. Mannix, county clerk and recorder, was demanded. He refused, but left the county as a matter of safety. Patrick McCarvel, a Victor business man who had refused to join the Citizens Alliance, and expressed himself freely in sympathy with the unions, was driven from the district. Upon his return he was immediately arrested by Marshal Naylor, put on an outgoing train, and told that if he returned again protection would not be afforded him.

While considering the advisability and amount of a reward to be offered, and methods of ferreting out the perpetrators of the Independence Station crime, the county commissioners were called upon by a committee from the Mine Owners' Association who demanded the employment of S. D. Crump as Special Prosecuting Attorney for the Independence cases, and all others arising from the strike, with a fee of $10,000 to cover all services, detective and otherwise. The demand was repeated by the Citizens Alliances of Cripple Creek and Victor, and was complied with by the commissioners.[18] The vacant position of Deputy District Attorney was filled by C. C. Butler, a Cripple Creek attorney.[19]

The action of the state militia at this time, viewed from a simple historical standpoint, was most extraordinary. Teller County had been declared in a state of insurrection and rebel-

[17] *Special Report of the United States Commissioner of Labor.* Senate Document No. 122, 58th Congress, 3rd Session, p. 252.

[18] S. D. Crump was the attorney for the Mine Owners' Association. One wonders at the large fee.

[19] The work of Mr. Butler offers a grateful contrast to the general partisan or fearful action of most of the county officers at this time. Mr. Butler was a Republican in politics, and was naturally in sympathy with the elements that were in temporary illegal power. He believed, however, in the absolute observance of the law, and the impartial prosecution of lawlessness, and refused to prostitute his office to any partisan ends whatsoever. In following his conscience he ruined his political prospects. His work will show repeatedly in the closing pages of this narrative.

lion. Its civil government had been practically overthrown, many of its officers forcibly deposed, and the others prevented from the exercise of their functions. A mob, organized and acting with deliberate forethought, headed by prominent citizens, but none the less a mob pure and simple, was overthrowing city governments, destroying property, arresting and forcibly deporting citizens—all this in the presence of the National Guard sent to restore order, yet not opposed by them, but on the contrary its actions acquiesced in and aid given to it in every possible way.[20]

The commission of seven appointed to examine men for deportation, received the sanction and authority of Adjutant General Bell.[21] Under the name of The Military Commission it held its further sessions in the offices of the Mine Owners' Association, and continued to try men and recommend them for deportation. "Judge" McGarry made a statement of the work of the commission in an interview June 14th.[22]

"We cleaned up the deportation slate last night as far as those arrested up to the time were concerned. We will have a short session this afternoon, beginning at 1 o'clock, at which we will attempt to dispose of the men arrested last night and this morning. We are not deporting any criminals nor any who might make good witnesses. The only difference between those deported and those remaining is in their expressed sympathies. Those who are on the wrong side of the Federa-

[20] To understand the situation it is necessary to keep in mind the tremendous wave of feeling caused by the terrible events of the sixth of June, also what was said in Chapter I, Part II relative to the county and city governments and the attitude of the state government.

[21] Special Order No. 1. A temporary commission is hereby constituted composed of the following named persons. Frank D. French, Nelson Franklin, J. B. Cunningham, F. M. Reardon, H. McGarry, C. E. Copeland, T. J. Dalzell. Said commission will assemble at once and judge of probable guilt or innocence of incarcerated people, and report to these headquarters as promptly as possible.

By command of General Sherman M. Bell.

Capt. First Infantry N. G. C.
GAIL S. HOAG,
Adjutant of District.

Biennial Report of Adjutant General, p. 26.

[22] Mr. McGarry was never a judge, but a Colorado Springs attorney, for a number of years a partner of J. Reed Crowell. His brother-in-law was a heavy stock holder in the Golden Cycle mine, and he (McGarry) became a director and attorney for that company.

tion question have to go. Otherwise they are just as good men as many who are permitted to remain in their homes."

Seventy-two men were deported under military guard June 10th. They were carried on the Atchison, Topeka & Santa Fe Railway to a point near the Kansas line, and then marched out of the state. Other bodies of men were deported throughout the month, some to the Kansas line and some to the New Mexico line. Two hundred twenty-five men were carried out of the state in this way.[23] This number must not be supposed to include all those driven from the district. A great many men were examined by the commission and simply warned to leave, and a much larger number scattered into the mountains, and avoided possible arrest and deportation by leaving the district on foot.[24]

It will be remembered that the Portland and some smaller mines had been declared "fair" by the unions, and continued in operation from the beginning of the strike. The hold of the Federation could not be entirely broken in the district so long as these mines were operated with union labor, so it was decided to close them. Adjutant General Bell issued a proclamation on the 9th, and proceeding to the mine offices of the Portland forced the superintendent to shut down.[25] Except for the statement in

---

[23] For complete lists of the names of the men see *Biennial Report of Adjutant General* 1903–4, pp. 225, 226, 227, 229, 231, 234, 240, 241, 242, 243.

[24] The legality of the deportations has been defended upon the principle of scattering a mob. Deportation it is claimed is the mildest form of legal action.

[25] PROCLAMATION.

WHEREAS, The governor of the State did, by proclamation issued on the 7th day of June, 1904, declare the county of Teller therein to be in a state of insurrection and rebellion, and the territory comprising the said county is now under the rule of military law, and now being held and occupied by the militia of said state and,

WHEREAS, A reign of lawlessness, violence, and crime has existed in said county for several months last past, inaugurated, encouraged, and carried forward by certain evil-disposed persons, resulting in wholesale assassinations of many peaceable and law-abiding citizens; and,

WHEREAS, Said reign of violence and crime still exists in said county, so that the peace of the community is threatened, lives and property of the citizens are menaced, and mob rule and violence now threaten to over-ride the law; and,

WHEREAS, The Portland mine, situated in said county, is, and for a long time has been, engaged in employing and harboring large numbers of dangerous lawless men, who have aided, encouraged, and given comfort and assistance to those who have been guilty of said crimes and outrages, so that said mine has become and now is a menace to the welfare and safety of the good

General Bell's proclamation the Portland miners are generally admitted to have been a more than usually good class of workmen. Those among them who would renounce the Federation and take out mine owners' cards were allowed to return to work: the others were deported or driven from the district. The Pride of Cripple Creek Mine, and the Winchester and Morgan Leases of the Wedge Mine, were closed in the same way on the 11th.

James F. Burns, the president of the Portland Gold Mining and Milling Company, brought suit in the United States District Court against Governor Peabody, General Bell, Sheriff Bell, and the Mine Owners' Association, for $100,000 damages for the forcible closing of the Portland, and deportation of its miners.[26] The directors of the company however held a special meeting and repudiated the action of the president, ordering the suits withdrawn. The mine opened with non-union labor June 21st.

The partial wrecking and closing of the union stores, and the expulsion of such a large number of the men, left many of the miners' families destitute. The Federation furnished supplies to these through two grocery firms of the district, and various

---

people of said county and a hindrance to the restoration of peace and good order;

Now, by the power conferred on me as commander of the military force in said county, and as a military necessity, it is ordered that the said mine be at once closed and all men found therein or thereabouts who are dangerous to the community be arrested and held until further orders.

SHERMAN M. BELL,
Brigadier General, Adjutant General,
State of Colorado.

Report of Adjutant General, p. 222.

[26] Mr. Burns in a letter written the preceding November said as to the position of the Portland: "The employe goes into the market to sell his labor, and as employers desiring to purchase labor, we have always been willing to treat with him individually or with any person or concern he may appoint as his agent, whether it be union or otherwise. Always recognizing that labor has an equal right with capital to organize or combine; we feel that we have no more right to dictate whether or not our employes belong to a union than we have to dictate whether or not they belong to some church. What we desire is efficiency in the labor we employ and we know we have it to a higher degree in the present union force than could be obtained from any new set of men until after they had been schooled for a long time in our employ. Therefore we are content, and believe that we have at the mine and mill about 700 of the best men in the Rocky Mountains."

The Portland had always operated on the open shop principle, and was not closed during either the strike of 1894 or the strike of 1903.

county organizations gave aid in cases of the greatest necessity. The militia officers warned the stores and various individuals to cease giving this aid, and on June 14th an order was issued by Colonel Verdeckberg forbidding the extension of aid to any of the miners' families, and directing that all supplies for this purpose be turned over to the military.[27] The militia did not follow this order with any reasonable effort to supply the poverty stricken families, and had not many of the sympathetic citizens and organizations of the district absolutely refused to respect it, there must have resulted the most intense suffering. The apparent intent was to compel the immediate removal of the deported miners' families, as the final step in the annihilation of the unions. Such an order sheds final light upon the attitude of the military authorities at this time.

The shut-down following the atrocities of June 6th was brief. The mines rapidly resumed operations, and with the reopening of the Portland the campaign for complete and satisfactory operation was being carried on as vigorously as before. Considerable inconvenience and expense was still met, incident to the employment of so many unskilled men, but the mine owners stoutly asserted that conditions would soon be as satisfactory as before the strike.

During the period of deportations[28] many members of the unions, satisfied that the situation was absolutely hopeless for

---

[27] SPECIAL ORDERS
No. 19.

No organization will be allowed, while this county is under military control, to furnish aid in any form to the members of any organization or their families in this county unless the same is done through military channels. Major Thomas E. McClelland is Provost Marshal of this military district, and he stands ready to receive from any person or organization any money or other supplies which are for distribution to any person rendered needy by reason of the military occupation of this county for the suppression of insurrection, and all money and other supplies so furnished will be applied to the relief of the persons above referred to.

EDWARD VERDECKBERG,
Commanding Teller County Military District in the absence of
Brigadier-General Sherman M. Bell.

[28] The report showed 1,569 men examined; recommended for deportation 238; recommended for trial in criminal courts 42; recommended for release 1,289.

"Of those recommended for deportation the list was composed of agitators, ore thieves, keepers of fences for stolen ore, habitues of bawdy houses, saloon bums, and vagrants. The examination was conducted along the line of the

the Federation, and thinking of the future for themselves and families, gave up their affiliation and took out mine owners' cards. In December, 1904 Secretary Hamlin stated that out of about 3,500 men employed over 2,000 had been in the district before the strike as members of the Western Federation of Miners. The military commission made its final report and disbanded on July 26th. On the same day Governor Peabody issued a proclamation declaring the "further application of military occupancy or authority suspended." Full authority was turned over to Sheriff Bell, and the troops were withdrawn. The strike was over.

Period Immediately Following the Strike

Although the miners unions of the Cripple Creek District were entirely broken up, the Western Federation declared the strike still in progress, and in fact has never officially withdrawn it. Partisan feeling continued to run strong for a considerable time, and showed itself for months after the withdrawal of the militia. Five men, J. C. Frazier, David O'Neill, William Hovey, C. M. Tully, and Fred Warburton, who had been deported but returned to the district, were run out of Victor by 25 masked men. At some distance from the city they were robbed of all their valuables, including passes that had been issued to some of them by the militia. They were then flogged; one of them knocked down with a rifle and kicked, and then sent on, threatened with hanging if they should ever return. Eleven Italians, who came into the district in a body on the F. & C. C. R. R., were escorted out by a body of citizens. W. J. Donnely, a former mayor of Victor, went on the bond of one of the arrested miners, and was threatened and warned to leave the district.[29] T. H. Parfet, and John Harper, managers

desirability of those examined for residence in the district, with a view to peace and law observance, and no other purpose was had in view of the recommendations."

(Signed by each member of the commission.)

[29] Deputy District Attorney Butler went to Mr. Donnely, and asked him in the interests of general law and order to make affidavit to the facts so that



THE VICTOR MASS MEETING.

of the union stores at Cripple Creek and Victor, returned to settle up the affairs of the wrecked concerns. Harper was taken from his home by a number of masked men, beaten, and driven from the district. Parfet met the same experience later, being so badly beaten that he could not walk. The home of George Seitz, a former union man who was leasing and had not taken out an association card, was entered in the middle of the night, and several shots exchanged, Seitz standing his ground and driving the men out. A. L. Leduc, while returning home from taking supper with a neighbor, was waylaid, robbed, beaten with the handles of whips, and run out on the road to Canon City. G. R. Hooten, who had been manager of the Federation store at Anaconda, was taken from his home, beaten with guns and cartridge belts, robbed of his purse and gold watch, and put on the road to Canon City.[30]

The union stores at Victor and Cripple Creek were turned over to the Interstate Mercantile Company, about the middle of August, and the Cripple Creek store reopened. The new company was supposed to have purchased the property from the unions, but people generally believed that this was simply a disguise and that the stores were really still owned by the Federation.[31] On the afternoon of August 20th at about 4:30 a mob of several hundred men suddenly formed on the main avenue of Cripple Creek. The store of the Interstate Company

---

an example could be made of the case, and such violations of the law thus prevented in the future, but this Mr. Donnely was afraid to do.

[30] The case of Jack Burke may be taken as showing the extreme attitude of the associations at this time, and the partisan position of many of the county officers. Burke was a Cripple Creek business man, a property holder, and according to all the testimony in the case a good citizen. He was, however, strongly in sympathy with the miners unions, and found it wise to leave the district. Upon his return in October a criminal complaint was sworn to by Sheriff Bell charging him with vagrancy. Deputy District Attorney Butler dismissed the case, closing as follows: "I have known this man for years. I know him to be a reputable, law abiding citizen of Teller County. I have gone into this matter deeply, and I find that there is not the slighest excuse for this unwarranted arrest. For that reason I ask the court to order his dismissal." Mr. Butler also took occasion to declare publicly that in his office he recognized no class distinctions, and should look simply at the question: "Did the man violate the laws or not?" Thus was nipped in the bud what there was every evidence to believe was a plan to arrest as a vagrant every deported miner who dared to return.

[31] This was doubtless correct, see *Official Proceedings* W. F. M. A., 1905, p. 43.

was broken into, and its manager and clerks thrown out without being allowed to even close the safe or take the account books. The windows and fixtures were smashed, and the goods mixed and thrown into the street, where a large part of them were destroyed or carried away. Deputy District Attorney Butler, hearing of what was taking place, came to the scene, and going to leading men whom he found there asked them to order the mob to disperse, but was simply laughed at. Persisting in his efforts he was seized by three armed men, forced from the scene and detained for some time. The sheriff's office, located almost directly across the street from the store, made no effort to protect it, or to disperse the mob.[32] The same evening a number of men were deported. The list is as follows:

J. C. Cole, formerly deputy district attorney.

Michael J. O'Neil, deputy county clerk and recorder.

Frank J. Hangs, attorney for the Western Federation of Miners.

H. M. Heimerdinger, manager of Interstate Company's store.

Frank Akins, local manager in said store.

Charles H. Wasson, clerk in said store.

Steve Leahy, clerk in said store.

J. W. Higgins, union man.

T. H. Parfet, union man.

Albert L. Pierce, Gus Girardo, James Redd, Patrick Maloney.

Eugene Engley, attorney, sympathizer with Federation.

The men were driven from town in buggies, and finally placed on foot on the Canon City road. Some of them were beaten and robbed, and shots were fired over their heads as they started off. All were threatened with violence should they dare to return.

Deputy District Attorney Butler, having secured affidavits

---

[32] *Special Report of United States Commissioner of Labor.* p. 310 Sheriff Bell was in Denver and the office was in charge of Undersheriff Parsons.

In an interview next day Governor Peabody said: "I have not been officially notified of the occurrences of yesterday. No call for aid from either faction has reached me, nor have I received any intimation that the State's assistance is needed in the settlement of the local differences which exist there now. I therefore infer that the local authorities feel confident of their ability to control the situation."

from some of the deported men, prepared informations against those who appeared to have been the leaders in the wrecking and deporting.[33] The cases came to trial in the spring of 1905, but while they were before the court, C. C. Hamlin, the secretary of the Mine Owners' Association, who had in the meantime been elected district attorney, dismissed them all.[34]

The general result of the conflict, and more particularly the effect of the deportation and scattering of the union men, was shown most strikingly at the November, 1904, elections. For the first time in the history of the county the Republican party triumphed at the polls, electing its entire ticket.[35] Edward Bell, having left the Democratic standard, was elected sheriff; C. C. Hamlin, secretary of the Mine Owners' Association, was elected district attorney; and the other vacant offices were filled largely with prominent Citizens' Alliance men.[36] The officers of the local militia companies who had been most active

---

[33] The following men were made defendants:
Nelson Franklin, former mayor of Victor, mill owner.
A. E. Carlton, president First National Bank, mine owner.
E. C. Newcomb, cashier same bank, mine owner.
William Carruthers, solicitor for D. & S. W. Ry.
Harry Waters, Frank Vanneck, E. K. Young; deputy sheriffs.
Charles Gunn, policeman.
A. C. Cole, former secretary Victor Citizens Alliance.
Henry Dahl, manager Ophir mine.
Dan'l McCarthy, superintendent Granite mine.
A. T. Holman, superintendent Golden Cycle mine.
William Bainbridge, superintendent El Paso mine.
L. G. Henry, R. P. Russel, John Sharpe; leasers.
Harvey Gregory, H. H. Babcock, Ira Watson, Woody Welsh, C. R. Orwig, Thomas Scanlon, Albert Stonehouse, —— Blum, —— Johnson, —— Pierce; miners and deputy sheriffs.
John Dalzell, mine superintendent.

[34] The district attorney has this absolute power under the Colorado laws.

[35] There were one or two unimportant exceptions.

[36] Following are the prominent Citizens' Alliance men and officers of the military companies elected or appointed to county offices:
Sheriff, Edward Bell, prominent Alliance man.
Undersheriff, L. F. Parsons, secretary Citizens' Alliance.
District Attorney, C. C. Hamlin, attorney for Mine Owners Association.
County Attorney, T. E. McClelland, major state militia.
Deputy County Clerk, G. S. Hoag, captain state militia.
County Treasurer, S. A. Phipps, president Citizens' Alliance.
County Physician, W. E. Driscoll, prominent Alliance man.
Jailer County Jail, Harley Keegan, first lieutenant state militia.
Deputy County Assessor, Frank Trego, captain state militia.
The officials of the towns and cities show the same kind of grouping.

in the later phases of the strike were also remembered, a number of them stepping into county or municipal offices.[37]

The Colorado City and Cripple Creek strikes covered a period of a year and a half, and from the call of the second strike at Cripple Creek until the final withdrawal of the militia, a year, lacking a very few days, had elapsed. The state troops had been in the field for a period of nine months. Thirty-three men had met violent deaths, and many more been injured by crimes and accidents traceable directly to the strike. Some idea of the intensity and meaning of the struggle can be gained by noting the enormous losses involved. The militia campaigns in the Cripple Creek District cost the state of Colorado $400,000, the pay rolls alone amounting to nearly $200,000.[38] The "relief" expenditures of the Western Federation of Miners for the fourteen months beginning August 1st, 1903, were $308,000, almost the entire sum being expended in connection with the Cripple Creek strike.[39] If to these amounts be added the losses to the men in pay rolls; the losses to the militiamen in the small wages received; the losses to the mine owners in attempting to operate with unskilled labor; and the losses to business paralyzed throughout the county, the sum total becomes enormous. This represents, however, only one small phase of the matter, an external index of the importance, the desperation, and the terrible mental and physical wastes of the whole contest. From the struggle that so convulsed it the Cripple Creek District has not yet recovered, and will not entirely for many years to come. To many the strike meant ruin, to others premature age. Hardly a citizen of the whole area but has had to carry some share of the load, and in losses and taxation, the burden will continue to bear heavily upon the entire state.

[37] At the election James Warford, formerly a deputy in the employ of the Mine Owners' Association, shot and killed two men at one of the polls. The evidence at his trial was strongly to show that the murder was cold blooded and entirely unprovoked. The jury disagreed. Judge Cunningham refused to admit Warford to bail while awaiting a second trial. District Attorney Hamlin then dismissed the case, alleging the impossibility of securing a conviction, and the great expense. A second information was later filed.

[38] *Reports of the State Auditor* and *Adjutant General* for 1903-4.

[39] *Reports* of Treasurer Haywood in *Official Proceedings* W. F. M. A. 1904 and 1905.

CHAPTER VI

DISCUSSIONS AND CONCLUSIONS

The Western Federation of Miners—Its Side of the Case

The Western Federation of Miners was organized in a convention held at Butte, Montana, May 15th, 1893. Forty delegates, representing fifteen unions from the states of Colorado, Utah, Montana, Idaho, and South Dakota, assembled, drafted a constitution, and began an active campaign for general organization.[1] The first Cripple Creek strike came six months later, while the movement was in its infancy, and the Federation hardly more than a name. The Altman union secured a charter in the general organization, and this was utilized by the striking miners to secure uniformity and authority in their actions, but the Western Federation of Miners as a body had no connection with the strike.[2]

The Federation has grown steadily since its organization. By 1903 its unions numbered 200, and its jurisdiction extended over the Rocky Mountains and far western states, and British Columbia. Five hospitals are owned by it, and several co-operative stores at various mining centers. Some of the local unions provide sick benefit, and maintain wards in the local hospitals, and many of them have halls with libraries, reading rooms, and rooms for social entertainment.[3]

During the first years of its existence the Federation changed officers every year, but from 1896 to 1906 the office of presi-

[1] Information furnished by the unions. See also *Special Report Commissioner of Labor.* U. S. Chap. I.

Also Langdon, Mrs. Emma F. *The Cripple Creek Strike, Introduction.*

[2] See p. 20.

[3] Information furnished by the unions. See also *Special Report Commissioner of Labor,* U. S., Chap. I.

The federation does not report its membership. The report of the Colorado *Bureau of Labor Statistics* for 1901–2 estimated the membership at 48,000.

dent has been held by but two men, Edward Boyce and Charles H. Moyer.[4] William D. Haywood, elected secretary-treasurer in 1901 has held the position ever since.[5] At the end of his sixth year in office Mr. Boyce positively refused re-election, and closed his career in a stirring speech that became a classic to his followers. Its dominant note was an appeal to class consciousness, and its climax a demand for socialistic action[6] When the convention closed it had voted confidence in the words of its president, and declared itself with the Socialist Party of America.[7] President Moyer and Secretary-Treasurer Haywood, radically socialistic in their own views, lost no opportunity to direct the activity of the organization more and more into socialistic channels.[8] The rank and file of the membership hung back, and did not accept socialistic ideas nearly so generally as has been supposed. At their annual conventions the delegates repeatedly refused to pass extreme resolutions asked for by the leaders.[9] But the Federation has been strongly under the influence of its officers these last years.[10] It is its misfortune that these men have been extremists. Its catastrophies have been mistakes of leadership.

The Federation man in speaking of the Cripple Creek difficulties prefers to merge them with the general strike difficulties of the time.[11] The struggle over the eight-hour question, and the wrongs done by capital therein loom large to him, and Cripple Creek is merely a phase of the general situation. The Colorado City difficulty is the immediate irritant. Here the union just formed is all but broken up by the summary discharge of its members from the employ of the Colorado Reduction and Refining Company. A strike is the remedy, a verbal agreement being reached at last, the union acting under pressure, and coming two-thirds of the way. But the company does not

---

[4] *Official Reports Western Federation.*

[5] *Ibid.*

[6] *Ibid.*

Copy officially published by federation. Also in *Official Proceedings*, for 1902.

[7] *Ibid.*

[8] *Ibid.*

[9] See page 10, 2nd par., also f. n. 1.

[10] See pages 25, f. n. 1, 36 and 37, including f. n., and page 13.

[11] A digest is here given of the statements of the case by various union officers.

fulfill its agreement satisfactorily—work is offered the men in such a way that they will not accept it—the management will not consider the wage scale. The other mills, which have made entirely satisfactory adjustments, become dissatisfied, and threaten to lower wages again unless the Colorado mill is forced into line. So a second strike is called. But the hostile attitude of the management has been so effective that the strike is unsuccessful. There is danger that all that has been gained will be lost if the mill cannot be controlled. Its ore can be shut off. The Cripple Creek miners are of the same organization and should support their brothers. There is added irritation in that some of the Cripple Creek mines refuse to employ union men at all. The capitalistic class in Colorado is pushing labor to the last ditch, and throttling its every move for betterment. The time for a decisive blow against such tyranny is at hand. So the miners are called out.[12]

The Mine Owners' Association—Its Side of the Case

Most of the principal mine owners of the Cripple Creek District acted in concert during the strike of 1894, and came to be spoken of collectively as the Mine Owners' Association. While there was no formal organization, the name persisted during the period between the two strikes. At the opening of the difficulties of 1903-4 the mine owners continued to act collectively. On August 13, 1903, a statement was issued over the signatures of thirty mine owners setting forth the generally satisfactory conditions preceding the strike, and declaring a policy of vigorous opposition to the Federation.[13] Soon after, steps were taken to give the organization a permanent form. The Cripple Creek Mine Owners' and Operators' Association was formally organized. E. A. Colburn was elected president, W. H. Bainbridge treasurer, and C. C. Hamlin secretary.[14] The association acted thereafter as a body through the regular channels of president, secretary, and treasurer.

[12] *Official Reports Western Federation.*
[13] Given in full, p. 92, f. n. 12.
[14] Accounts by officers.

On September 17th the following notice was posted:

"It is hereby given out that no member of any union, affiliated or connected with the Western Federation of Miners will be given employment on this property.

"By order of the Cripple Creek District Mine Owners' and Operators' Association."

The association thereafter announced its intention not only to refuse absolutely to treat in any way with the Western Federation of Miners, or employ its members, but to prevent if possible the employment of Federation men anywhere in the district. So far as the influence of the organization would reach, mines and mills operating at the time were compelled to discharge all union workmen.[15]

March 10, 1904, after the first period of military rule, the association went a step further, and announced its intention "to drive the disturbing and dangerous element of the Western Federation of Miners from the district and from the state if possible."[16] This was followed by the adoption of the card system, which effectually blacklisted members of the Federation. All applicants for work were furnished with a blank form for the answering of a number of questions, the last four of which were as follows:

"Are you a member of the Western Federation of Miners?

"Have you ever been a member of the Western Federation of Miners?

"If so, when did you sever your connection with that organization?

"Do you belong to any labor organization, and if so, what?"

These questions satisfactorily answered, the secretary of the association issued the applicant a card, which was surrendered and returned to the secretary upon securing employment. When a new position was sought the card was re-issued. No work could be obtained without it, and a man could be dropped at any time by simply refusing to re-issue his card.

To the mine owners the Cripple Creek strike was simply an unwarranted, arbitrary, and unjust blow, struck at the

[15] *Labor Disturbances in Colorado*, in *Report of the United States Commissioner of Labor*, p. 224. Also this work, p. 117, f. n. 23.

[16] Given in part on pp. 116 and 117.

instigation of a few officials while conditions were unusually satisfactory, and in spite of the actual opposition of the men concerned.[17] Whatever may have been the status of the eight-hour day in Colorado City it was not involved at Cripple Creek, for the eight-hour day had been in force there for nine years. Whatever may have been the conditions at Colorado City the mine owners were not concerned. Only a few of the mines were shipping to the mill in question, and most of them were bound absolutely by contracts. It was unthinkable that they should be forced into being the club of the Western Federation for the compelling of anybody and everybody to the wishes of that organization.

The strike called, and no demands to which to accede, no grievances to settle, but one course was possible, to open the mines fearlessly, and run them in independence of the Federation. It was not to be supposed that in the future they would put themselves again under the power of such an organization, Federation men might look elsewhere for employment. When resort was had to threats and actual violence, and they were being prevented from opening the mines, it was no more than right that the state should furnish them protection, especially when the local government was so largely in the hands of their opponents, and no very active efforts were to be expected from them. The card system was to give them a record of their workmen, and to prevent the union miners from quietly getting back into power.

With the explosion and riots of June 6th, it became apparent that no permanent peace could be expected so long as the organization of the Western Federation remained in the county. Under the conditions it was almost impossible to ferret out criminals, and as the mines were successfully operating, and it was not proposed to have any further dealings with the Federation, the only thing left was to rid the community of it. This was a humane and just policy, for angry citizens were threatening general lynchings. Deportation was an act of necessity for the general welfare of the public.[18]

---

[17] Digest from proclamations, and statements by officers.
[18] *Ibid.*

The Citizens Alliances—Their Sides of the Case

Citizens Alliances were formed at various places in Colorado during the labor disturbances of 1903. The movement started in Denver and spread to every city in which strikes of considerable importance occurred. Business men from all ranks, with some professional men, and a few workmen, constituted the membership. A state organization was later effected. The principal avowed objects of the alliances were to restrain members of labor unions from unlawful conduct while strikes were in progress, and in general to discourage lockouts, strikes and boycotts.[19]

The Citizens Alliance in Cripple Creek was formed during the first shock of disrupted business conditions subsequent to the calling of the last strike. The date of its organization was August 27th, and on September 2nd it had a membership of 500.[20] The Citizens Alliance and Mine Owners' Association were entirely independent organizations. They had, however, a considerable common membership and worked on an informal agreement for the same end. When rumors of a lowering of wages have arisen since the settlement of the difficulty, officers of the alliance have stated, that one of the stipulations under which they gave their support to the association was that wages should not be lowered when the strike had been won.[21]

To show the attitude of the organization, soon after its formation, it issued a statement of which the closing paragraphs are here quoted.

"Resolved, That the persons most active in the work of deterring and retarding the wonderful advancement and prosperity of this, of all the United States the grandest and most bountifully endowed, through motives incomprehensible, but at best evidence of an extremely lax idea of the principles enunciated in the grandest instrument of all ages, the Constitution of the United States, should be lawfully restrained, that such an act

[19] *Special Report United States Commissioner of Labor.* Chap. 2. *Constitution Colorado State Citizens Alliance.* Statements of officers.
[20] *Official Announcement* published Sept. 2, 1903.
[21] Statement by various members and officers to the author.

will conserve the best interests of all true American-loving citizens.

"Resolved, further, That any person who does not choose to work under the existing conditions of wages and hours, which he himself helped to establish, and persuades or attempts to induce another to refrain from honest labor, is a parasite upon the body politic, and the community should be freed from such contaminating influences.

"Resolved, further, That in contradiction to the misconceived idea of some few that our organization is antagonistic to unions or organized labor, let it be understood that we oppose no organization of individuals who act within the law, but we permit no person to arrogate the right to interpret the law to suit himself.

"Resolved, That one of the most potent factors in the settlement of the late unpleasantness is the presence in our midst of that sturdy soldier, with unblemished character, whose indefatigable efforts are on the side of right and justice, and whose very name sends a cold chill down the spinal column of the wrong doer, and to whom we raise our hats—General Sherman Bell."

When the troops were sent to the district it passed the following resolution:

"Resolved by the Citizens Alliance of the Cripple Creek District, That we heartily approve the action of Governor Peabody in ordering the state troops to the Cripple Creek district for the purpose of maintaining peace, and we believe this is the most effectual means of stopping the crime of which we have already had several instances, and from which the majority of the citizens of this district have been in constant fear and dread, and the like of which has brought shame and disgrace on honest unionism in this county. . . . "

The alliance took a threatening attitude toward those who would not join the organization. Many men joined it because they feared boycott if they refused, and many members expressed themselves as out of sympathy with the methods employed by the organization.[22] December 8th Secretary Parsons

[22] Information from personal interviews. See also *Special Report, United States Commissioner of Labor*, p. 49.

in issuing a call for a special meeting closed as follows: "We herewith enclose you a list of the firms that do not belong to the Alliance. You can govern yourselves accordingly."

On June 9, 1904, during the deportation period, the membership of the association signed the following agreement:

"We, the undersigned merchants of the Cripple Creek district and employers of help, hereby agree not to employ help of any kind that is in any way connected with the Trades Assembly or the American Federation of Labor or the Western Federation of Miners."

The next day the agreement was changed to read "American Labor Union" because it was found that all barbers', printers', and carpenters' unions were included in the Federation of Labor, and their services were at the time deemed indispensible.

June 14th a general statement was issued, of which the latter part is given:

"In the future neither walking delegates, agitators, nor labor unions will be allowed to say who may or may not labor in Teller County, or who may or may not do business here.

"The sources of strife in the Cripple Creek district have been the Western Federation of Miners and the Trades Assembly, which they dominated and through which they carried out their boycotts, etc.

"There is no room in Teller County for these two organizations and their existence will no longer be tolerated. The citizens and tax-payers are bound to have peace, law, and order in Teller County, and while they have no wish to work hardship on any person simply because of his membership in a labor union, nevertheless drastic measures must and will be adopted to preserve peace. Crafts of the various classes organized will not be interfered with as to their local or international affiliation, provided the Trades Assembly be forthwith disbanded and no similar boycotting agency be organized: provided further, that such unions of the local crafts have not for their national or international affiliation the Western Federation of Miners, The American Labor Union, the State Federation of Labor, or any kindred organization.

"We declare against all agitators and walking delegates. We declare against strikes, boycotts, and walkouts."

The position of the Citizens Alliance on the various strike questions was exactly that of the Mine Owners' Association, and the arguments advanced were the same as those of the association, but assumed from a more general business standpoint.

The Position of the State Authorities

During the strike of 1903–4 the Colorado National Guard was called upon for unusually extensive service. Troops were in the Cripple Creek District for a period of nine months. Campaigns were carried on at Colorado City, Cripple Creek, Telluride, and Trinidad, and at times the entire available state militia was in active service. Cripple Creek and Telluride were subjected to periods of military rule, and deportation occurred under military authority from Cripple Creek, Telluride, and Trinidad. The state officers thus laid themselves open to charges of collusion with the corporate and large business interests of the state, and were severely criticised for their action. The facts underlying the situation at Cripple Creek were the political isolation of Teller County, the strength of the mine workers there, and the control of the county and state by the extreme wings of the two great opposed parties of the state.

In his official statement explaining his various acts during the Cripple Creek disturbances Governor Peabody declared that he had acted fairly and disinterestedly for the preservation of law and order.[23] He insisted that the Western Federation of Miners was a violent organization, with dangerous political theories, and a long record of crime, whose only claim to respectability was its title as a labor organization.

"I have had to deal with an organization which has no counterpart in this country. Its official proclamations, full of defiance and challenge, issued from time to time, have amounted, as has been said, to 'a declaration of war against the state.' I have met the challenge with a policy none too vigorous for the outlawry I was called to oppose. But through it all I have had but

[23] Digest from signed statement issued by the governor, July 30, 1904, addressed, *To the people of Colorado.*

one object, and that to show the people of Colorado that the laws will be upheld, that a criminal organization cannot dictate the policy of this administration, and that everywhere within the borders of Colorado property shall be secure and labor free."

The troops were called to Colorado City upon the demand of the sheriff, accompanying a petition from leading citizens, which the executive was bound to respect. Action at Cripple Creek was based upon the criminal record of the Federation.

"This record convinced me that the overt acts which had been committed in Cripple Creek were but forerunners of others, and that with the executive officers of Teller County in direct collusion with this organization, it would be but a few days until a reign of terror, involving loss of life and property, would be established in that district. The federation is led and absolutely controlled by unscrupulous men. Only two of the executive committee are residents of the state, and none of the committee has anything in common with the state's interests."

Stress is laid upon the high duty devolving upon the executive to afford protection to men who desire to labor. In affording this protection it became necessary "to confine certain men in military guard houses, as one of the safest and most expeditious methods of restoring order." The legality of the action was attested by the State Supreme Court. There were the occasional indiscretions among officers and men inevitable in so large a body unaccustomed to military service, but in general the conduct of the troops was praiseworthy, and the only reason that they were found actively opposed to the acts and purposes of the Federation was "because that organization was attempting to prevent by violence the operation of the mines and mills."

With the strike apparently over and peace restored, came the dynamiting of the Independence station, and the determination of the citizens that the community must be rid of the authors and investigators of such crimes.

When the excitement had subsided somewhat and the county was still under quasi military rule, it was found that there were several hundred members of the Western Federation in the district who would not work, and had resolved that others should

not, if, by such methods as those employed at the Independence station, they could be driven or frightened away.

"It became apparent that, even with every member of the National Guard in that county, it would be impossible to prevent the use of dynamite in the stealthy manner always employed by the Federation. The mountains and gulches of that rugged country afford a multitude of safe places for reconnoitre and hiding. The troops, which had already been there the greater part of the year, could not be maintained indefinitely without incurring immense additional expense. The only safe and available remedy seemed to be to disperse the radical members. If all of them had not personally participated in the outrages they had at least stood approvingly by and given their support, encouragement, and protection.

"If these men were scattered, the avenues which ten years of organization and association had opened for crime in that district would be closed. It would require much time in any other community before they could gather about them a new band of conspirators with the inclination and daring to inaugurate in a new field another condition of terrorism. These men as I have said, had determined never to yield the strike. The mine owners had resolved not to employ again the members of that organization. Therefore the only employment which remained for them was that of stirring up strife, committing depredations, and intimidating by inhuman crimes the working miners.

"I resolved that they should be dispersed and I dispersed them. This was done, however, only after careful investigation of each individual case."[24]

The Responsibility and Blame—The Western Federation of Miners

For the opening of the Cripple Creek strike the Western Federation of Miners must take the whole responsibility.[25] Whatever may have been the reasonable complaints as to the eight-hour

[24] p. 147, f. n. 23.
[25] See pp. 83, 84.

day in Colorado as a whole, and as to the right to form unions and to adjust wages, at Colorado City, these things had no direct connection with Cripple Creek.[26] Admittedly the conditions were absolutely satisfactory, and the only excuse for the strike was the refusal of certain mines to cease shipping ore to the Colorado City plant.[27] When it is remembered that most of the mines were not shipping to the reduction company at all;[28] that those which refused were bound by contracts;[29] and that the strike on the reduction company represented a sum total of nine men out, the strike stands in its true light.[30]

The result was simply what might have been expected, with determined and powerful men on the other side. The Federation pulled the avalanche down upon its own head. By its constant partisan action, and the conscienceless use of its power before the strike, it paved the way for an unrestrained reaction. And while nothing said here must be taken as condoning lawlessness committed by any person whomsoever, so far as the Federation itself is concerned, it may blame itself for the disastrous result. The unions reaped only what they had sown.

Concerning the crimes committed during the latter part of the strike so little evidence has been adduced, that judgment must, for the present, be suspended. Especially is this true since, at the time the outrages were committed, the district was completely in the hands of those who sought in every possible way to fasten the guilt upon the unions, but who exhausted their means and ingenuity without result.[31] The general circumstantial evidence can be adduced, but nothing further.

The people of the mining area in general, who have lived with the Federation, and known its history, have little hesitation in laying the criminal acts connected with the strike at the door of that organization. Nor will they change their opinion unless strong evidence is shown to the contrary. During the

---

[26] See p. 18, including footnote. p. 88, f. n. 5. pp. 88 and 89, especially footnotes p. 89.

[27] *Ibid.*

[28] See pp. 82 and 83.

[29] See p. 82.

[30] See p. 88.

[31] pp. 104, 108, 129, Chap. V. entire and Chap. VI. Section on trials.

WHAT IS A SCAB?

A scab is to his trade what a traitor is to his country, and though both may be useful in troublesome times, they are detested when peace returns, by all; so when help is needed, a scab is the last to contribute assistance, and the first to grasp a benefit he never labored to procure. He cares only for himself; he sees not beyond the extent of a day, and for a monetary approbation he would betray his friends, family and country; in short, he is a traitor on a small scale, who first sells the workingman and is himself afterwards sold in his turn by his employer, until at last he is despised by both and detested by all. He is an enemy to himself to the present age and to posterity.

Remember the names and the faces. You will meet them again.



No 1—Emit Hydrick
Height 5 feet 8 inches
Weight 160 pounds
Age formerly 45 and 50 yrs
Eyes, blue
Beard just turning gray
Rather stoop shouldered
Round face

No 2—Billy Santee
Height 5 feet 10 inches
Weight 180 pounds
Hair gray
Age 46 years
Eyes ——
Nose, normal
Nationality American
Remarks—He is an I. W. W. recruiting engineer
El Paso Mine

No 3—Columbus Woolfe
Height 5 feet 8½ inches
Weight 150 pounds
Age 58 years
Eyes, brown
Complexion, dark
Nose, normal
Nationality American
Hair, gray
El Paso Mine

No 4—Chas Lewis
Height 5 feet 11½ inches
Weight 180 pounds
Age 45 years
Eyes, brown
Complexion, dark
Nose, normal
Nationality American
Hair, black
Mt. Rosa Mine

No 5—Abe Perry
Height 5 feet 10 inches
Weight 170 pounds
Age 38 years
Eyes, [illegible] gray
Complexion, light
Nose, normal
Nationality American
Hair, light brown
Remarks—Is found in left eye

No 6—Dad Hamilton
Height 5 feet 7 inches
Weight 150 pounds
Age 56 years
Eyes, ——
Nose, normal
Nationality American
Hair, [illegible]
Remarks — Keeps hotel at Iberia
El Paso Mine

No 7—Otto Peterson
Height 5 feet 7 inches
Weight 150 pounds
Age 45 years
Eyes, brown
Complexion, light
Nose, normal
Nationality Swede
Hair, light brown

No 8—Frank Payne
Height 5 feet 10 inches
Weight [illegible] pounds
Age 27 to 30 years
Eyes, brown or hazel
Complexion, dark
Nose, large
Nationality American
Hair, dark brown, straight
Remarks—Sometimes wears a mustache. Quiet, says good impression
Last Hoisting Engineer
C. C. D. Nov. 1903

No 9—John McKinley
Height 5 feet 11 inch
Weight 165 pounds
Eyes, dark gray
Heavy brown mustache
Nose, normal
Nationality American
Hair, dark brown
Complexion, dark
Remarks—Shot in hand or wrist
El Paso Mine

No 10—Melvin McGee
Height 5 feet 7 1/2 inches
Weight 145 pounds
Complexion, dark
Age 25 years
Hair, brown
Nationality American
Remarks—Has a hair lip on right lip
El Paso Mine

No 11—J. C. Duprey.
Height 5 feet 10 1/2 inches
Weight 160 pounds
Age 34 years
Eyes, gray
Complexion, sallow
Nose, high bridge
Nationality American
Hair, light
Remarks—Stoop shoulder and stradles when walking
Rendering Mine
C. C. D. Jan. 1904

No 12—John Tenner
Height 5 feet [illegible]
Weight [illegible] pounds
Age [illegible] years
Eyes, gray
Complexion, light
Nose, large
Nationality American
Hair, light brown, turned in the middle
Remarks—[illegible] turned [illegible]
Last Mine [illegible]
C. D. [illegible]

No 13—George Karkeets
Height [illegible]
Weight [illegible]
Age [illegible]
Eyes, brown
Complexion, [illegible]
Nose, normal
Nationality [illegible]
Hair, [illegible]
Remarks—[illegible]
[illegible]
[illegible] Mine
C. D. [illegible]

No 14—Andy Bowers
Height 5 feet
Weight [illegible]
Age [illegible]
Eyes, gray
Complexion, light
Nose, medium
Nationality [illegible]
Hair, [illegible]
Remarks [illegible]
[illegible] Mine

No [illegible] E. R. Stipe
Height [illegible]
Weight [illegible]
Age [illegible]
Eyes, [illegible]
Complexion, [illegible]
Nose, normal
Nationality [illegible]
Hair, [illegible]
Remarks [illegible]
[illegible] Mine

No 15—Pierce Waters
Height [illegible]
Weight [illegible]
Age [illegible]
Eyes, [illegible]
Complexion, [illegible]
Nose, [illegible]
Nationality [illegible]
Hair, [illegible]
Remarks [illegible]

No 16—Walter Irving
Height [illegible]
Weight [illegible]
Age [illegible]
Eyes, [illegible]
Complexion, [illegible]
Nose, [illegible]
Nationality [illegible]
Hair, [illegible]
Remarks [illegible]

No 17—Frank Calvert
Height [illegible]
Weight [illegible]
Age [illegible]
Eyes, [illegible]
Complexion, [illegible]
Nose, [illegible]
Nationality [illegible]
Hair, [illegible]
Remarks [illegible]

No 18—C. P. [illegible]
Height [illegible]
Weight [illegible]
Age [illegible]
Eyes, [illegible]
Complexion, [illegible]
Nose, [illegible]
Nationality [illegible]
Hair, [illegible]
Remarks [illegible]

No 19—[illegible] Hartman
Height [illegible]
Weight [illegible]
Age [illegible]
Eyes, [illegible]
Complexion, [illegible]
Nose, [illegible]
Nationality [illegible]
Hair, [illegible]
Remarks [illegible]

No 20—George Murphy
Height [illegible]
Weight [illegible]
Age [illegible]
Eyes, [illegible]
Complexion, [illegible]
Nose, [illegible]
Nationality [illegible]
Hair, [illegible]
Remarks [illegible]

No 21—Frank Carter
Height [illegible]
Weight [illegible]
Age [illegible]
Eyes, [illegible]
Complexion, [illegible]
Nose, [illegible]
Nationality [illegible]
Hair, [illegible]
Remarks—[illegible]
[illegible] Mine

No 22—Chas. [illegible]
Height [illegible]
Weight [illegible]
Age [illegible]
Eyes, [illegible]
Complexion, [illegible]
Nose, [illegible]
Nationality [illegible]
Hair, [illegible]
El Paso Mine

No 23—Chas West
Height [illegible]
Weight [illegible]
Age [illegible]
Eyes, [illegible]
Complexion, [illegible]
Nose, [illegible]
Nationality [illegible]
Hair, [illegible]
Remarks [illegible]

No 24—Frank Carter
Height [illegible]
Weight [illegible]
Age [illegible]
Eyes, [illegible]
Complexion, [illegible]
Nose, [illegible]
Nationality [illegible]
Hair, [illegible]
Remarks [illegible]

No 25—Chas West
Height [illegible]
Weight [illegible]
Age [illegible]
Eyes, [illegible]
Complexion, [illegible]
Nose, [illegible]
Nationality [illegible]
Hair, [illegible]
Remarks [illegible]

No 26—Pete Lawrence
Height [illegible]
Weight [illegible]
Age [illegible]
Eyes, [illegible]
Complexion, [illegible]
Nose, [illegible]
Nationality [illegible]
Hair, [illegible]
Remarks [illegible]

No 27—Jean Thomas
Height [illegible]
Weight [illegible]
Age [illegible]
Eyes, [illegible]
Complexion, [illegible]
Nose, [illegible]
Nationality [illegible]
Hair, [illegible]
Remarks [illegible]

No 28—Chas Norman
Height [illegible]
Weight [illegible]
Age [illegible]
Eyes, [illegible]
Complexion, [illegible]
Nose, [illegible]
Nationality [illegible]
Hair, [illegible]
Remarks [illegible]

No 29—Jean Thomas
Height [illegible]
Weight [illegible]
Age [illegible]
Eyes, [illegible]
Complexion, [illegible]
Nose, [illegible]
Nationality [illegible]
Hair, [illegible]
Remarks [illegible]

No 30—Frank Calvert
Height [illegible]
Weight [illegible]
Age [illegible]
Eyes, [illegible]
Complexion, [illegible]
Nose, [illegible]
Nationality [illegible]
Hair, [illegible]
Remarks [illegible]

For further information, address the

Secretary District Union No. 1 W. F. M.,

Cripple Creek, Colorado.

SECOND EDITION. MORE COMING.

A "SCAB LIST" PUBLISHED BY THE WESTERN FEDERATION.

strike of 1894 a reign of terror was brought about by men of criminal character, many of whom were admitted to the unions.[32] Non-union men were severely beaten,[33] and the Strong mine was blown up.[34] Between the strikes non-union men were beaten, and in one case at least a non-union man was shot, and the perpetrators protected from just punishment by union juries.[35] In the strike of 1903 men were assaulted and property was destroyed;[36] there was such a condition for a time that men opposed to unions felt it unsafe to be out after dark; shots were fired through the shaft houses of mines;[37] and threats were made to non-union men and militiamen, of which the Vindicator explosion, the attempted train wrecking, and the Independence horror would have been only a partial fulfillment.[38]

In Victor union hall on the day of the Victor riots, a number of photographs of mine groups were found. Over the picture of each non-union man a number was placed, and on the back the names were written with the corresponding numbers. From the names on the back of the Vindicator Mine group two had been scratched out, the names of Charles H. McCormick and Melvin Beck, who had been killed in the descending cage at the mine. The mine owners took this as evidence of an assassination plot, but the union officials explained that the pictures were simply for the making up of "scab lists" that had been published at frequent intervals.[39] In the raids by militia and deputies that followed, at one place a number of Winchesters and 300 rounds of ammunition were discovered.[40] Under the cabin of one of the Altman union officials was found a quantity of high explosives, spools of wire, and electric batteries.[41] Ellsworth W. Holden, a machinist member of the

[32] Part I, p. 30, including f. n. 3.
[33] Part I, p. 31.
[34] Part I, p. 33.
[35] See p. 70.
[36] See pp. 92 and 93.
[37] Testimony of a number of non-union men and mine guards.
[38] From many statements by militiamen and non-union men.
[39] See illustration opposite p. 150.
[40] *Report Adjutant General*, 1903-04. Also testimony before Coroner's Jury in Victor Riots.
[41] This find was credited to K. C. Sterling, a detective in the employ of the Mine Owners' Association. Sterling does not enjoy a good reputation and the

Federation, testified that at the time of the Colorado City strike Federation officers tried to induce him to go to Colorado City, and gaining employment as a non-union man, to wreck the machinery of the Colorado Reduction and Refining Company.[42] No one would think for a moment of accusing the rank and file of the Western Federation of such outrages as marked the last stages of the strike. But there were certainly members of the organization who would not hesitate to commit crime to accomplish their ends. There were certain officers who were willing to countenance and even to instigate the beating of men, and the destruction of property. Would they not wink at the commission of graver crimes?

The Mine Owners' Association and the Citizens' Alliances

No discredit is to be attached to the mine owners for opposing a solid front to the attack of the Western Federation of Miners, nor for straining every nerve to break the strike. To have submitted would have been to admit a condition of subserviency impossible to men of strength and courage. Nor with the police power of the district so thoroughly in the hands of the miners,[43] could they be expected not to make every effort to secure the presence of state troops. The position of the Citizens Alliances was also perfectly natural, in opposing a condition that was bringing upon them financial ruin.[44]

Many of the men employed as guards by the mine owners during the strike were roughs of the worst type, men with criminal records either before or since that time. The following list of mine deputies who committed criminal acts within 12 months after the close of the strike, will serve as basis for judging this fact.

---

miners made various charges against him. See connection with train wrecking cases, pp. 55, 56 and 57. See also *Cripple Creek Times*, June 8 and 9, 1904.

[43] Testimony before the military commission verified by the author.

[44] See p. 66 and same, f. n. 10.

[45] See pp. 63 and 144.

MINE DEPUTIES WHO COMMITTED CRIMINAL ACTS WITHIN TWELVE MONTHS AFTER THE CLOSE OF THE STRIKE.

Name.	Crime.	District court trial.	Sentence.
James Warford	Murder	No. 984	On second trial, life.
James Warford	Assault	Nos. 909, 923	10 to 12 years.
Thomas C. Brown	Murder	No. 923	Jury disagreed, nolled
Walter Kenley	Assault, intent to kill	Nos. 909, 912	10 to 12 years.
John Police	Fraudulent check	No. 943	Not tried, Jan. 1906.
Thomas C. Brown	Theft	No. 939	Jail sentence.
Charles Fightmaster	Highway robbery	No. 956	8 years.
Bert Smith	Highway robbery	No. 956	8 years.
Clark Watt	Assault, intent to kill	No. 994	10 to 12 years.
John Frame	Assault, intent to kill	No. 994	10 to 12 years.
Eugene Scott	Manslaughter	No. 980	7 to 8 years.
Thomas Scanlan	Assault	No. 865	10 months.

It is not apparent just how much can be adduced from the above statement. The position of deputy at such a time, with its attendant danger, and the certainty of public contempt, will not be accepted by the ordinary citizen. The mine owners had to draw from the only supply available for the purpose, and had to take what they could get. But the fact remains that there were in the employ of the Mine Owners' Association during the strike men capable of almost any crime, and that, as pointed out by the unions, these men might as logically be blamed for the overt acts of the strike as any men who could possibly have belonged to the unions. In the train wrecking case the union attorneys certainly succeeded in throwing a great deal of suspicion upon Detectives Scott and Sterling.[45] Charles Beckman, who had joined the Federation as a detective for the mine owners, admitted that he had been urging the commission of various overt acts, but explained that he did so simply that by working into the confidence of the right men he should be in a position to know of such plots.[46] In some cases since the strike, officials under the influence of the mine owners have sought in a most disgraceful manner to protect criminal deputies and others from the results of their misdeeds.[47]

[45] See p. 106.

[46] p. 105. See also *United States Commissioner of Labor, Special Report on Cripple Creek Strikes*, Chap. XX.

[47] See District Court Case, *People vs. Charles Fightmaster and Bert Smith.* Conviction of highway robbery. October, 1905. Testimony and charge to jury. See also this work, Chap. V., section on *The Period Following the Strike.*

In the lawlessness following the crimes of June 6th the mine owners cannot be separated from the Citizens Alliance. Each had a part but not a separate one. It is the testimony of reliable witnesses that the speech of the secretary of the Mine Owners' Association on the afternoon of the Victor riots was such as any sane man must know would create trouble, and that he was entirely to blame for the starting of the affair.[48]

The actions of the following days can all be explained as the natural outcome of the conditions. The wave of indignation following the terrible Independence explosion could be expected to carry men off their feet. The great dread that followed the conviction that the Federation was responsible, might be expected to bear some fruit. For men believing as they did there was much excuse for the lawless acts that followed. But to explain lawlessness is not to justify it, to find extenuating circumstances is not to condone it. There are extenuating circumstances for practically all mob violence. There are always extenuating circumstances for the negro lynchings of the South. There were extenuating circumstances for the lynching that occured near Denver a few years ago, but it roused such a storm as resulted in changing one of the fundamental laws of the State.[49] If law is to be observed only when it seems to work no hardship upon those concerned and, when there are no alleviating conditions, it is a poor thing indeed, and useless, for men need no law to follow their own inclinations. One great intent of law is restraint, to compel men to follow one path when there are strong impulses to follow another. The mob outrages in the Cripple Creek District, and the wholesale deportation of men were a disgrace to the commonwealth of Colorado, and will long foster among other peoples a humiliating and unjust judgment of the citizens of that state.

---

[48] Statements of a number of non-partisan witnesses who were present at the mass meeting.

[49] The readoption of capital punishment.

The State Authorities

In every case in which troops were used in the Colorado City and Cripple Creek difficulties, they were called into action before such conditions existed as are generally considered to warrant resort to state military power, viz., the commission of such overt acts as to show the existence of a mob, or such a condition of lawlessness as has gotten beyond the possibility of successful local control.[50] The troops were called out upon the assertion that such conditions were imminent, not that they existed, and final judgment as to the justice of the calls must rest upon that point.

One side of the case is well put in the report of Colonel Verdeckberg, Commanding Teller County Military District:

"During my long and varied experience in the National Guard of Colorado it has invariably occurred that troops, when utilized in suppressing riots, insurrections and rebellions, were not ordered into the disturbed localities until life or property had been destroyed, or, in other words, until a seemingly stronger argument presented itself for such a procedure than was taken in the campaign just closed. Threats and intimidations were of such a startling nature and of such frequent occurrence that, continued longer, they would naturally have brought about a more serious state of affairs and additional hardships to the law-abiding citizens of the district and to the State in its suppresssion of lawlessness. Without doubt, therefore, in view of the fact that the primary objects for which military rule was established in Teller county were satisfactorily accomplished, the more speedily on account of its early inception and its preventive influence over the acts of lawless men and agitators, and that its results have worked toward the betterment of conditions throughout the county, the prompt action of your excellency in thus using the strong hand of the military before bloodshed or the destruction of property could ensue was the most important factor in the restoration of peace and order;

[50] See pp. 75-77, including f. n., pp. 93-96, including f. n., and pp. 126 and 127.

and this campaign should establish a strong and valuable precedent."

The other side is represented in an editorial from the Denver *Post*.

"The situation at Cripple Creek is a reminder of the fact that the President of the United States and governor of a state have unlimited power in emergencies. . . .

"But there is nothing the governor of a state or the president of the United States tries so earnestly to avoid as the exercise of the power now being used by Governor Peabody. Seldom has it been used, and, indeed, the most odious conditions have been tolerated rather than exercise naked, undisguised force. So all the presidents of the United States and all the governors of states have hesitated long and well, and, indeed, there is no modern example of the thing Peabody is doing, save Cleveland's famous act in Chicago. . . .

"In Cripple Creek the thing at which Peabody has struck with all the power of the state is not physical, as in Chicago, but in the air. That is to say, men said they were afraid to go to work; but there were no criminal acts. The governor's excuse for his action is that he levels the armed force of the state against fear. To the man who cares nothing, sympathetically, one way or the other, but who has a regard for law, the view of the matter is that the governor should have refused to act until there was evident lawlessness and disorder.

"The fact of the business is that the reasons for Peabody's action would justify the seizure of all union labor leaders on the charge of treason, regardless of any strikes. In fact, it may be doubted if the governor realizes what he is doing. The real, vital interest in the thing is that Governor Peabody of Colorado, has cast a dye which, unless he backs out, to use plain words, means that organized labor is treasonable and, if his attitude is accepted, will mean the crushing of labor organization by the government as being a society or organization which challenges the supremacy of government. As soon as the country realizes what is being done in Colorado it will be recognized as a national issue."

There can be but one judgment as to the use made of the troops. State officers represent the power of the people as a whole, and when their authority is exerted it is theoretically for the blind suppression of crime, and for the preservation of order, in the interest of the general welfare, without regard to class, order, or condition. When this power is exercised on lines of partisan bias to directly further the interests of one class as opposed to those of another, it is a perversion of the intention of democratic government, and calls for unqualified condemnation.

Sherman M. Bell, Adjutant General, in general charge of the troops, had been a rough rider in the command of President Roosevelt during the Spanish-American war. He returned to Colorado to be hailed as a popular hero for a time, but soon lost the admiration of the public through his overbearing ways and self-conceit. In the Cripple Creek campaigns his idea seemed to have been to make the most gorgeous military display possible, and to give himself the largest notoriety as a military leader.[51] He was perfectly frank in the statement that his entire intention was to aid the mine owners and to smash the unions,[52] and his conduct caused a large number of representative Colorado citizens to give credence to the statement that he was in the direct pay of the mine owners. Governor Peabody refused to hold himself responsible for many of the extreme acts of the general, but if he was failing to carry out the governor's orders he should have been removed.[53]

The charges upon which Teller County was placed under military rule were not proved to be well founded.[54] The state authorities failed to secure the conviction of any of the criminals that it was claimed the local civil authorities were needlessly and intentionally allowing to go free, and they thus laid themselves open to the most serious charges of deliberate

[51] See pp. 96-102, 110-116, f. n. 2.

[52] See p. 99.

[53] See pp. 99, 110, including footnotes. Also various interviews during the period of military rule.

[54] See pp. 115, f. n. 29; 109, f. n. 11; pp. 109, 110, 118. Also section on *Trials*, Chap. VI.

partisan action.[55] The use made of state authority during the second period of military rule, when city governments were being overthrown and men being deported in large numbers, is to be strongly condemned. The use of the militia to virtually back armed mobs.[56] and to give some show of legality to a commission which on its own admission was forcibly deporting men simply for refusal to leave a certain organization,[57] was, in the opinion of the author, a perversion of public authority, of the most vicious type. It is true that the commission had to deal with some men of criminal type, and in their deportation there may have been some justice, but when the associations started avowedly and deliberately to wipe a legal organization out of existence,[58] state authority should have had no choice but to intervene. We may find some excuse for the citizens of the district, beside themselves with the horror of the days before, but the public authorities lost an opportunity for the display of that broader wisdom, and stabler judgment, overriding the frenzied passions of the moment, that should be a chief glory of the state.

INDICTMENT OF WESTERN FEDERATION BY MINE OWNERS' ASSOCIATION.	INDICTMENT OF MINE OWNERS' ASSOCIATION BY WESTERN FEDERATION
(1.) That a large number of criminals and lawless men have been welcomed, supported and sheltered by the Western Federation of Miners.	(1.) That a large number of ex-convicts, gamblers, desperadoes and other criminals have been and now are, knowingly employed and paid by the Colorado Mine Operators' Association and the citizens' alliance in Cripple Creek, Telluride and elsewhere in the state as deputy sheriffs, guards, detectives, etc.
(2.) That the officers of that organization and a large number of the members, while perhaps not committing crimes themselves for which they can be prosecuted, do directly and indirectly advise or encourage the lawless among them to commit crimes.	(2.) That the officers of these organizations and a large number of their members have not only committed crimes themselves, for which they could and should be prosecuted and punished, but the organizations as such, have directly and openly aided and abetted the same, and their members have boasted and approved of such crimes.

[55] *Ibid.*

[56] See pp. 125, 126, 128, 130-33, 136, including f. n. 33.

[57] See pp. 129, 130, including footnotes.

[58] See pp. 116, 126, 142, 146.

(3.) That these officers and this element preach disrespect for the law and contempt for the lawful authorities and openly and publicly, as individuals, approve of and gloat over the slugging, dynamiting and murdering of non-union men by their criminal associates.

(3.) That the association and alliance, while shouting hypocritically for "law and order," have openly defied the courts, destroyed the liberty of the press, invaded the sanctity of the home, caused arrests without warrant, imprisoned men without charges of crime, driven men from the county after first robbing them, and while declaring such men to be criminals of the deepest dye, have, without compunction, dumped them on neighboring communities. . . .

(4.) That where this organization has had its members in local public offices, or where it has had the power to influence peace officers and courts in this state, it has paralyzed the hand of justice and made it next to impossible to convict members of the federation caught in the act of committing crimes.

(4.) That wherever the association or alliance have not had their members in public office, they have, whenever deemed necessary, compelled by violence and intimidation, the resignation of duly elected public officials and the appointment of their own creatures to the so-called vacancies. Wherever their members or tools are in office, or where they have had the power to influence peace officers and courts in this state, the law, as established since Magna Charta, has been subverted by decisions which have made the state subject of derision to the entire country, the hand of justice has been paralyzed, and it has been futile to attempt conviction of their members, although caught in the act of committing crime and openly confessing and boasting it. . . .

(5.) That this organization, having formally and officially espoused the cause of the so-called Socialist party, is opposed to our present form of government and is aiming at its overthrow, together with the abrogation of the present constitution.

(5.) That these organizations have formally and officially espoused the cause of the so-called Republican party, which they pretend to be still the party of Lincoln. That each of them is opposed to our present form of government, and aiming at its overthrow. To this end they have destroyed and confiscated property, destroyed the freedom of the press, defied the courts, nullified the writ of habeas corpus, exercised the right of search without warrant, denied the right of trial by jury, exercised the power of banishment, denied the right of citizens to keep and bear arms, and trampled upon every other guarantee of personal liberty made by the constitution of the state and of the United States. . . .

(6.) That this organization teaches its members to regard the wealth they produce from the property of others as

(6.) That the organizations mentioned teach their members that the sole aim and end of existence is to acquire

their own, thus encouraging theft (of ore, for instance) and also inflaming the minds of its members against their employers, against the law, against organized society and against the peace and safety of the public.

wealth without producing it, and that therefore the methods of trusts, stock watering, stealing ore from neighbors under the guise of trespass, and other similar methods used by predatory wealth, are respectable, when compared to the economic theory that wealth should belong to him who produces it. . . .

Comparison of the Strikes

The two Cripple Creek strikes permit some instructive comparisons. The first strike was entirely natural in its origin, the result of self-existing and compelling economic circumstances, a great economic depression, a large surplus of labor, great differences in a single occupation and small field, as to hours and wages of labor. The second strike was as artificial in its origin as the first was natural, the result of a forced labor movement and of the manipulations of labor leaders. The first strike worked itself out among frontier conditions, and illustrates remarkably the labor movement in its infancy in newly settled regions. The second strike occurred among the conditions of a most thoroughly developed industrial community, and shows extreme types of organization and collective action. Many of the contrasts between the strikes are those of entirely different social stages. The result of the first strike was a definite, settled, industrial condition, the result of the second the entire elimination of the power of one organized factor.

The use of state authority had a very close and vital connection with both strikes, and with suggestively contrasted results. The conditions of the first strike were generally favorable to the mine owners, and it seemed practically impossible for the miners to win the fight. But the power of the state was interposed in their favor and they won. In the second strike the conditions were decidedly favorable to the miners. They were strongly intrenched in power, thoroughly organized, and had a large financial backing. But the power of the state was exerted in favor of the mine owners and they won. In both strikes the state held the balance of power, and the sympathetic use of its authority reversed the expected result, in the first case in favor

of one side, and in the second in favor of the other. There is a suggestion here of a probable lack of appreciation of the strength of the state as a factor in past labor history, and of its possible importance in the future.

Both the Cripple Creek strikes point clearly to the fact that the ever-recurring dispute between civil and military authorities when both are being actively exercised in the same area, has yet to be settled. It may not be out of place here to throw out a suggestion that the federal government might well carry the nationalization of the state milita a step further, and arrange that whenever called into active service for more than a very brief time it shall be placed under the command of a regular army officer. State military authorities are of political appointment, and likely to be of small military experience or knowledge. It is not to be expected but that such men should incline to over-importance when called into sudden authority, should think little of overriding the civil authorities, and should use their power in full consciousness of political exigencies, or that when they are called to a community violently opposed to them in politics a storm of protest should be raised. The United States army officer is a man of training and legal knowledge, versed in the quiet exercise of authority, and used to his power. He would at least be free from the blinding effect of local political interests, and his authority would tend to be more judiciously used, more unquestionably accepted and more thoroughly respected by both sides.

No especial discussion need be given of the part played by politics in the Cripple Creek strikes. Every phase of the conflicts had its political as well as industrial aspects. So completely was the political element involved that the whole narrative can be read with reference to its political disclosures, and the significance of the struggle is as deep politically as industrially.

There is a lesson to labor unions, though not of an unusual sort, in the second strike, in the danger from loss of democracy and minority rule. The hope of unionism lies in its self control. Intelligent interest upon the part of the great mass of the membership, and the retention of local ballot control, are essential

to safety, and the danger to labor from a powerful body superior to its control is as great when that body represents its own organization as when it represents the ever-decried ranks of capitalism. When the union miners of the Cripple Creek District allowed their active interest to flag, and permitted minority control, which in turn delegated its power to a radical committee, they invited almost certain downfall.

SIGNIFICANCE OF THE LABOR HISTORY

The final Cripple Creek strike is to be partially explained in terms of its approach to frontier character. The psychologist will wish to trace the effect of the great altitude as it works to make men more irritable and easily excited, and to make easy, sudden and extreme bursts of passion. But the fuller explanation of the violence, the bitterness, and the disruption of the community must be sought in the geographical and political isolation of the district, and the centering of its whole industry in mining. The miners unions included so large a preponderence of the district workmen, and had such complete sway of the local trades council, as to represent practically the laboring class. When mining ceased business ceased. Who struck a blow at mining struck a blow at the entire business interests of the district. One line of cleavage divided the district, and he who did not stand on one side found it hard not to stand on the other. Hence the solid front of the Mine Owners' Association, and Citizens' Alliance. United labor on one side, and united business interests on the other. This general economic cleavage continued naturally into the political arena, each of the two parties rallying an interest to its banner. The political struggle was resultingly heated and severe, and much partisan bias was to be expected of the successful candidates. A people was split into two great classes economically and politically for the working out of an industrial crisis.

The Cripple Creek strike stands in one way for partial frontier conditions, in another it may represent the completion of a modern industrial development ahead of its time. Recent movements in the industrial field, the intense labor union activ-

ity, the efforts for more inclusive and far reaching organization, and the growth of the sympathetic strike, on one side; the formation of various types of employers associations and citizens alliances, with state and national affiliation, on the other, all point in the same direction — toward the widening of the areas of conflict — a more general and complete engagement of social forces when an industrial dispute is to be settled. Any influence that precipitates the generalizing of the movements can easily find its way into the political field.

In the Cripple Creek District this movement has completed its development, and the final issue has been fought to a finish. Other communities and sections approach the same conditions. There do not lack of indications of a general current sweeping the entire nation to such a final issue. History will tend to repeat itself when the culminations come. It may well be that in the throes of the Cripple Creek conflict lie auguries of the future, lessons for both parties to the strife, and for the "powers that be" in state, in county, and in town.

The strike may be summarized thus: The unions sowed class consciousness, and it sprang up and destroyed them. Control passed from one class to another, and in the Cripple Creek District class rule is supreme.

BIBLIOGRAPHY

THE STRIKE OF 1894

Canfield, John G., Mines and Mining Men of Colorado, Denver, 1893.

Tange, Thomas, Colorado Mineral Resources.

Calhoun, W. C., Colorado's Gold Fields, Quarterly Sentinel, Jan., 1897.

Wells, David C., The Teaching of our Recent Economic Experiences, Forum, Jan., 1894.

Proudfit, John W. & Co., Cripple Creek, Colorado Springs, 1895.

Warren & Stride, Cripple Creek Illustrated, Denver, 1896.

Manning, J. F., The Wonderful Cripple Creek District, Colorado Springs.

De LaVergne, E. M., Early days of Cripple Creek, Colorado Springs, 1894.

Mining Stock Manual, Colorado Mining Stock Exchange, 1896.

Hall, Lincoln H., Official Cripple Creek District up to Date, Cripple Creek, 1896.

Biennial Report of the Adjutant General, Colorado, 1893–1894.

Fourth Biennial Report of the Bureau of Labor Statistics, Colorado, 1893–1894.

Messages of Governor Waite to the Legislature.

Impression Copies of Orders to Colorado State Militia, May and June 1894. Office files of the Adjutant General.

Report of the United States Commissioner of Labor 1905. Labor Disturbances in Colorado, Senate Document No. 122, 58th Cong. 3d. Session.

Langdon, Mrs. Emma F., The Cripple Creek Strike, Denver, 1905.

Calderwood, John, Reminiscences of the Cripple Creek Strike, (Not published).

Official Statement of Miners' Unions, Cripple Creek Crusher June, 1894.

American State Reports, Vol. 44. pp. 127-133.

Mills' Annotated Statutes of Colorado, Vol. 1, Sec. 856; Vol. 3, Sec. 3294 A.

District Court Records, Colorado Springs, March to May 1895.
People vs. D. M. McNamara and others.
People vs. Jackson Rhines.
People vs. Robert Dunn and others.
People vs. Robert Lyons and others.
People vs. Nicholas Tully and others.

Colorado Newspapers for the entire strike period.
Cripple Creek Crusher.
Colorado Springs Gazette.
Evening Telegraph, Colorado Springs.
Rocky Mountain News, Denver.
Republican, Denver.
Times, Denver.
Post, Denver.

THE STRIKE OF 1903–1904

Special Report of the United States Commissioner of Labor 1905. Labor Disturbances in Colorado, Senate Document No. 122, 58th. Cong. 3d. Session.

Official Statement of the Colorado Mine Operators' Association. Senate Document No. 86, 58th. Cong. 2d. Sess.

Official Statement of the Western Federation of Miners. Senate Document No. 163, 58th. Cong. 2d. Sess.

Ninth Biennial Report of the Bureau of Labor Statistics, Colorado, 1903–1904.

Biennial Report of the Adjutant General, Colorado, 1903–1904.

Biennial Report of the Auditor of State, Colorado, 1903–1904.

Official Proceedings of the Annual Conventions Western Federation of Miners of America 1902, 1903, 1904, 1905.

Stenographer's Manuscript of Testimony before Coroner's Juries in the Vindicator Explosion, Independence Explosion, and Victor Riots.

District Court Records, Cripple Creek, 1903, 1904, 1905.

Stenographer's Manuscript in District Court Case No. 752, (Train Wrecking).

Criminal Record of the Western Federation of Miners, Compiled by the Colorado Mine Operators' Association. Colorado Springs 1904, "The Red Book."

Reply of the Western Federation of Miners to the "Red Book" of the Mine Operators' Association, Denver, 1904. "The Green Book."

Walter Wellman's Indictment of Moyer, Haywood, and the Western Federation of Miners. Pamphlet by Mine Owners' Association, Cripple Creek, 1904.

Langdon, Mrs. Emma F., The Cripple Creek Strike, A History of Industrial Wars in Colorado. Denver, 1904. Officially adopted by the Western Federation.

Bartholomew, H. E., Anarchy in Colorado. Who is to Blame? Denver, 1905.

Baker, Ray Stannard, The Reign of Lawlessness, Anarchy and Despotism in Colorado, McClures, May 1904.

Mills, J. Warner, The Economic Struggle in Colorado, The Arena, 1905–1906.

The Miners' Magazine, Denver, 1903, 1904, 1905.

Wilshires Magazine, New York, 1903, 1904, 1905.

The Appeal to Reason, Girard, Kas., 1903, 1904, 1905.

Colorado Newspapers for the entire strike period:

The Post, Denver.
The Republican, Denver.
The Times, Denver.
The Rocky Mountain News, Denver.
The Gazette, Colorado Springs.
The Evening Telegraph, Colorado Springs.
The Times, Cripple Creek.
The Record, Victor.

BULLETIN OF THE UNIVERSITY OF WISCONSIN

NO. 211

ECONOMICS AND POLITICAL SCIENCE SERIES. VOL. 3, NO. 2, PP. 167-439

A CONGRESSIONAL HISTORY OF RAILWAYS IN THE UNITED STATES TO 1850

BY

LEWIS HENRY HANEY, Ph. D.

Assistant Professor of Economics, University of Iowa

A THESIS SUBMITTED FOR THE DEGREE OF DOCTOR OF PHILOSOPHY
UNIVERSITY OF WISCONSIN
1906

Published bi-monthly by authority of law with the approval of the Regents of the University and entered at the post office at Madison as second-class matter

MADISON, WISCONSIN
APRIL, 1908

PREFACE

The author wishes to express his indebtedness to the inspiration received from Prof. F. J. Turner, to the advice of Prof. Richard T. Ely and of Prof. B. H. Meyer, and to the faithful help of his wife.

Upon the work of Mr. R. J. Usher in the Congressional documents partly depends the accuracy of the foot-note references and the exhaustiveness of the material.

LEWIS H. HANEY.

Iowa City, Ia.
February 18, 1908.

CONTENTS

BOOK I.—RISE OF THE RAILWAY QUESTION

PAGE

CHAPTER I.—The Railway Enters Congress: Plans and Projects

The beginning of the movement for Railways — Latrobe's Report — Oliver Evans and his Open Letter to Congress — Dearborn's Petition — Roger's Marine Railway — John Stevens; Government experiments proposed — Strickland's Report to the Pennsylvania Society for the promotion of Internal Improvements — The first commercial railways: The South Carolina Canal and Railroad Company..... 181

CHAPTER II.—The Railway Enters Congress: Early Ideas Concerning Structure and Utility

Track, description and cost of kinds proposed by Stevens, Evans, Strickland, Charleston and Hamburg, etc.— "The American System" of construction — Locomotives, Speed, Cars, General Utility and Future, Conclusion..... 195

CHAPTER III.—Cost of Transportation and Rates of Toll

Estimates of cost — Actual rates — Maximum rates — Maximum rates of significance — Rates to be based on cost.. 206

CHAPTER IV.—Railways versus Canals: 1830-1840

Railways did not find a clear field — The House inquires: 1825 —Congress experiments: 1830—B. & O. versus C. & O. —The controversy typical of the times — Movement from canals to railways — Exceptions — The railway predominant — Summary of arguments for and against railways -- Early railways not regarded as merely auxiliary to canals 216

PAGE

CHAPTER V.—Railways Supersede Roads as a National Improvement

Roads or Railways?—Steam on common roads—(Note on steam carriages)—The Buffalo-New Orleans Road Bill—Movement to change Cumberland Road to a railway (debate and vote)—Railways supersede turnpikes in the mail service—General summary and conclusion..... 223

CHAPTER VI.—The Railway and Society

Railways different from canals and turnpikes in economic effects—Railways monopolistic—The Camden & Amboy—Railways undemocratic—Not regarded as subject to same economic laws as turnpikes—Railways and the Union.... 241

CHAPTER VII.—The Railway and the Government

Agitation for government construction—Construction not to include ownership or operation—About 1822 government ownership and operation became a political impossibility—Railways regarded as a possible investment—Movement for government ownership: Pacific Railways—The Movement not general—Government regulation, six grounds for it—Chronological Summary..... 251

BOOK II.—AID TO RAILWAYS

CHAPTER VIII.—General Internal Improvement Funds

The year 1825, factors for making internal improvements—Bills and resolutions for an internal improvement fund—(1) Railways not specifically mentioned—(2) Railways specifically mentioned—National Internal Improvements lose favor... 263

CHAPTER IX.—Government Surveys

The General Survey Bill: 1824—The first railway route surveyed: 1825–26—Surveys become frequent—Charges of corruption—The Act of 1824 repealed: 1837–38—Discussion of the various surveys—(Appendix containing a list of surveys made or proposed under act of 1824)..... 275

PAGE

CHAPTER X.—Monetary Aid

Different relationships involved in stock subscriptions and direct monetary donations — Early stock subscriptions in works of internal improvement — The movement for stock subscriptions to railways — Early appropriations donated to internal improvements — Proposed donations to railways — Summary and conclusion..... 289

CHAPTER XI.—Import Duties and Railway Iron

Early import duties on iron — Condition of the iron industry, importance of iron imports to railways — The movement for free railway iron: 1826–1832 — Debates of 1827–28 — Drawback of 1830 — Free railway iron bill passes: 1832 — Conditions between 1832 and 1841..... 298

CHAPTER XII.—Import Duties and Railway Iron — (Continued)

The act of 1832 repealed — The tariff act of 1842 — Conditions between 1842 and 1846: rails versus railways — The railway lobby develops — The tariff of 1846 — Report on Memphis Convention's memorial — Summary and conclusions 308

CHAPTER XIII.— The Mail Service and Aid to Railways

An important point of contact between government and railways — Relations of regulation and aid — Analysis of latter — An account of the movement for a system of contracts — By 1850 the free mail service idea abandoned..... 318

CHAPTER XIV.—Land Grants: Introductory and Early History

A concise account of developments down to 1830, the idea being to account for political conditions which confronted the early railways..... 327

CHAPTER XV.— Land Grants: Rights of Way Through Public Lands

Early grants — General grants proposed: 1834–37 — First right of way granted — General law: 1852 — Significance of grants of rights of way to railways..... 334

PAGE

CHAPTER XVI.—Land Grants: Pre-emption Rights

No pre-emption bill passed — Proposals most numerous: 1835-36 — Vote on Mt. Carmel and New Albany pre-emption bill — Senate report favors Selma-Tennessee bill — General pre-emption bill fails: 1848-49 — The "New" States — Significance of pre-emption rights 342

CHAPTER XVII.—Land Grants: Certain Percentages of the Proceeds of Land Sales

Early grants for roads and canals: 1802-1820 — No grants: 1820-1836 — Some proposals — States seek possession of 2 per cent funds — Five per cent of certain funds granted to Mississippi and Alabama: 1836 — Debate over giving 2 per cent fund to Mississippi — Bill for Alabama passes Senate — 2 per cent funds granted to Mississippi and Alabama: 1841 — Five per cent to Iowa on admission — Resolutions of Arkansas and Missouri 348

CHAPTER XVIII.—Land Grants. Donations of Land Other Than Rights of Way

The Mt. Carmel and New Albany, chronological account of the efforts to obtain a donation — Conclusions from this account — Early proposals for donations to railways — The first donation authorized for a railway: 1833 — Movement for donations grows in volume: 1833-40 — The Pre-emption Act of 1841 — Break in the movement — Revives and increases — Illinois Central donation: 1850 — Discussion of economic forces, and conclusions concerning the general movement, illustrated by chart showing number of miles of line constructed each year and receipts from land sales 354

CHAPTER XIX.—The Congressional Philosophy of Land Grants to Railways

Arguments of 1836 versus those of 1846 — The proprietor argument — The homestead idea — Land Grant and Homestead policies not in conflict — Arguments against land grants and answers: 1848 — The influence of sectional interests — (1) Internal improvements and railways — (2) The public domain 369

BOOK III.—RAILWAYS TO THE PACIFIC

PART I

ISTHMIAN PROJECTS

PAGE

CHAPTER XX.—History of Isthmian Transportation Projects with Especial Regard to Railways

Introductory account of transportation projects under Spain — Quasi-private projects of foreign interests: 1827-50 — United States takes a hand — Mission of Col. Biddle — Isthmian railways of great national importance: 1846 — The Rockwell Report: 1849 — Accessory Transit Company — Conclusion 386

PART II

TRANS-CONTINENTAL LINES

CHAPTER XXI.—Origin and Growth of the Pacific Railway Idea

Forces leading up to the idea — Birth of the idea: 1835-45 — Growth of the idea in Congress and out: 1845-50 — The idea becomes generally accepted: 1850 — Asiatic trade — Pacific railways 400

CHAPTER XXII.—Private Projects

Asa Whitney's plan — Critical examination of the plan — The plan in Congress — Whitney's motives and service — Hartwell Carver's scheme — De Grand — Extension of Galveston and Red River R. R. 409

CHAPTER XXIII.—Government Ownership Proposed

Factors for government ownership — Wilke's memorial — Gold and government railways — Benton's national central highway — Walker's incipient measures 425

INTRODUCTION

Without attempting to define the railway problem, it may be broadly stated that this problem is a social one: whether it be regarded as one of relatively reasonable rates or of absolutely reasonable rates, the welfare and best development of society are the end and solution of the matter. The truth of this somewhat sweeping generalization no one will deny, yet it is too often forgotten, and the end lost in a jumble of means. To remedy this condition and throw a broader light upon the transportation question, there is much need that the matter be placed in its proper historical setting, and that is the aim of a study like the present.

It follows from the fact that the question is a social one that it is also political. While relations existing between transportation agencies and what, by way of analogy, is called the social organism are more fundamental, they involve relations to the political institutions through which that organism acts; and so, though we are finally interested in the connection between railways and you or me, we are immediately concerned with their connection with our government. But this connection is not a fixed, permanent relationship. It has its history; it has grown and changed in the past; it will grow and change in the future. In a word, the railway problem is relative, and not the least helpful phase of a congressional history of railways is that which emphasises this relativity.

The transportation system of the United States is an evolution: from the trail to the railway track there has been a certain continuity in change. The railway passed and partly superseded the highway, the canal, and the river as a means of transportation, these falling into subordinate places in the nation's aggregate of facilities for conveyance and communication. Naturally men met the railway in the light of experience and many ideas concerning its nature and operation were

crude and erroneous. To understand aright the reception of the railway and its early history, in Congress and out, it is necessary to know men's ideas on railway technics and their reasons for those ideas. In brief, to write a good history of railways one could not begin with the railway, for it was and is but a part in a complex of transportation agencies.

The period covered extends from the earliest mention of railways in Congress down to 1850, a date which, as Hadley says, ended the years of railway infancy.[1] This period in its turn may be divided at the year 1830, when steam was adopted as the motive power in this country,—the years prior to that date being ones of plans, prophecies, and origins; those succeeding it forming a period of infancy, growth, and perfection. For several reasons the greater period has such unity and definiteness that a volume has been devoted to it and strictly confined within its limits.

In the first place, by about 1850 there had come a truer conception of the nature and functions of railways. Again, this truer conception was itself largely due to the technical progress and railway extension of the time. The close of the half century saw the railway net fast extending toward the Mississippi river. It was an epoch of rapid railway construction and the beginning of consolidation. Connected with this condition, partly as cause and partly as effect, was the beginning of the system of huge land donations which the year 1850 marked. Then there was the discovery of gold in 1848 which was a powerful factor in opening the West and stimulating industry; it encouraged projects for a railway to the Pacific and brought up questions of government ownership. Finally, it was at this time that the states, beginning with New York, began to pass general laws of incorporation. This was brought to pass partly no doubt by the spread of *laissez faire* doctrines and partly by the prevalence of lobbying and corruption, the growth of which state of affairs occurred during our period. Then, too, the national government illustrates the same tendency by passing a general law providing for rights of way to railways at about

[1] *Railroad Transportation*, p. 12.

this time. These general laws indicate the multiplication of railways which came about 1850.

As sources for a congressional history it is natural to turn to the published proceedings of Congress, and the House and Senate *Journals*, *Debates of Congress*, *Congressional Globe*, and the reports to Congress form the great source for the present history. Locked up in the piles of calf-bound *Reports of Committees*, *Executive Documents*, and the like, there is a vast amount of material dealing with railways, and one object has been simply to exploit this material in a systematic way. Our attitude has been to a great extent passive—following where this material leads, not attempting to force it into the mould of preconceived notions.

The title, *A Congressional History of Railways in the United States*, suggests the two-fold character of the work. On the one hand, there is the railway, and much interesting and valuable matter concerning early railways, their structure and development, has been found in the documents. Here, as elsewhere, the chief attention has been given to this material with the idea of tracing those forces which directly actuated congressmen on the transportation question; but other sources, as contemporary books and newspapers, have been used. On the other hand, there is Congress. Perhaps it is hardly worth while to distinguish the history of the railway in Congress from that of Congress and the railway, but it is the latter aspect which emphasises the political and legislative side. By reason of this aspect the study necessarily takes on considerable breadth, embracing the great social and economic issues of the time. Thus land policies, internal improvements, the tariff, and the slavery question are all involved—and very directly involved, too—and further complication results from the fact that varied economic interests give rise to sections which take sides on these questions. South Carolina, for instance, wants neither federal internal improvements nor a protective tariff; what then will be her attitude toward a proposal to aid railways by remitting duties on imports of railway iron? Will she favor a step toward free trade at the expense of an extension of the activity of Congress?

The material for the solution of such questions clearly has

considerable value for the student of United States history, and it is believed that some light is thrown upon them, if not in the line of new results, yet by way of clarifying and confirming such conclusions as have already been drawn.

It will be observed that all the relations existing between society, through government, and railways may be summed up under the two heads: aid and regulation. The granting of aid, it is believed, tends to regulation; whether regulation tends to cause grants of aid is a question the answer to which our material does not make clear. Throughout the period to be discussed there was a legitimate demand for more railways in most parts of the country. This demand, as distinguished from that of the present day, was for more railways rather than better ones—it was quantitative rather than qualitative. The existence of such a demand was a strong incentive to government aid, and it was especially strong as an effective political issue in times prior to 1830 and again from 1845 on, those times being fraught with fear as to the ability of the Union to hold together an expanding country. But, aid being granted, did Congress make stipulations in the way of regulating the rates or service of the railways benefited? This is a question of fact to be answered only by a careful study of the congressional history of railways.

BOOK I

RISE OF THE RAILWAY QUESTION

A CONGRESSIONAL HISTORY OF RAILWAYS IN THE UNITED STATES TO 1850

CHAPTER I

THE RAILWAY ENTERS CONGRESS: PLANS AND PROJECTS

The Beginning of the Movement for Railroads*

Within the first three decades of the nineteenth century, the modern system of steam railway transportation was born. It did not come full-fledged, however, nor was it without forerunners. In England, as early as the sixteenth century, ways were fitted with flagstones in order to lessen friction. Later strips of wood were used; these in turn were reinforced with strips of iron, till in 1776 a tramway of iron rails was constructed. During the eighteenth century there were experiments with steam locomotion in France and in England. But, roughly speaking, only after 1800 were economic conditions ripe for the change, and then the genius of Stephenson appeared. There were numerous experiments with steam traction, on railways and common roads, and men like Cugnot, Murdoch, Trevithick, and Blankensop are worthy of note. In 1813, it was discovered by Blacket that the adhesion of wheels to smooth rails was sufficient for locomotion. Nine years later the tramway from Hetton colliery, where Stephenson worked, was equipped with a locomotive. In 1825, on the Stockton and Darlington railroad,

* The author is indebted to the Division of Transportation of the Carnegie Institution for a grant which has made the prosecution of this work possible.

steam locomotion for commercial purposes began, and in 1830 the historic Liverpool and Manchester railroad was opened.

Now, not only the men of science and engineers, but the great mass of the English people were stirred and interested in these experiments and achievements. What, then, could be more likely than the dissemination of this interest? The seed was with England, but it soon fell upon American ground.

This ground was well prepared. In the first place, the big idealism of Americans was already developed. The great West, with its swelling population, was the background, and the acquisition of Louisiana and the expedition of Lewis and Clark gave large vistas to people and statesmen. Again, and more directly, the need of unity and tangible bonds among the states was keenly appreciated. To this end, comprehensive schemes of internal improvement were very early proposed. Washington saw the importance of artificial highways to the Northwest Territory.[1] As early as 1796, Zane was assisted by a congressional appropriation in opening a road in Ohio.[2] In 1802 and 1803 funds were granted the state of Ohio for roads.[3] Under Jefferson a national system of internal improvements was begun in the Cumberland Road (1806); and in 1808, Gallatin made his famous report. Ten years later the Erie canal was begun.

Thus, not only was the ground well prepared for large schemes for improving transportation, but the government, state and national, was already trained in its part of assisting such enterprises; and it is not strange that among the earliest mentions of railways in this country are those that are found in congressional documents.

Latrobe's Report

In the *American State Papers*[4] there appears a communication made to Gallatin by Benjamin H. Latrobe, in 1808, and included in the former's report upon internal improvements just men-

[1] Poor's *Manual*, 1868-69, p. 11.
[2] See below, p. 328.
[3] *Laws*, II: 175, 226.
[4] XX: *Misc.* I, 916.

tioned. This is the first document relative to railways that appears in the records of Congress. The unique position in time of this report warrants a full discussion of its contents.

"In the question proposed to me by you," says Latrobe, "the subject of artifical roads was comprehended; but being informed by you that the canal companies of Pennsylvania and Maryland had transmitted to you ample accounts of their undertakings, and as in their works, experience has taught a system and mode of execution of the most perfect kind, I have refrained from adding anything to the information thus required. It has, however, occurred to me that a few remarks on railroads might not be unacceptable to you, especially as the public attention has often been called to this sort of improvement, and the public mind filled with very imperfect conceptions of its utility." These misconceptions on the part of the public, he states, were based on reports of enormous loads drawn by a single horse on railways in England, and consisted in supposing that such a system might soon be generally adopted in this country. For two reasons this supposition seemed vain: on a railroad only carriages expressly constructed for that purpose could be used, and in order to lower cost of transportation sufficiently to justify the construction of railroads, a density and concentration of traffic was necessary that must be lacking in the United States. "The sort of produce which is carried to our markets is collected from such scattered points, and comes by such a diversity of routes, that railroads are out of the question as to the carriage of common articles."

Three exceptions, however, were allowed to this general inexpediency: railroads might pay expenses in connection with coal mines and granite quarries; they might be used as a temporary expedient in overcoming difficult parts of artificial navigation; and they might make possible long lines of communication otherwise impracticable.

The report contains a full description of the form of railway best adapted to this country.[5]

Thus there are several points of significance in this document.

[5] See below, p. 195.

In the first place, it appears that the public mind was considerably exercised over the subject of railroads and their utility. As is implied at the beginning of this chapter, the agitation for railways did not begin about 1830, but at least twenty years earlier.

In the second place, in the report there are brought out some ideas of economic interest. No mention is made of steam, the horse being the only means of locomotion referred to. Clear expression is given to the principle according to which density of traffic is so desirable, but no account is taken of the possibility of developing that density of traffic,—a possibility soon to be so liberally discounted in this country.

It is interesting to note that the exception concerning coal mines and quarries was soon justified, among the first railways in the United States[6] being that laid from a granite quarry in Quincy, Mass. (1826),[7] and another from the coal mines at Mauch Chunk, Pa. (1827).[8]

Oliver Evans—His Open Letter to Congress

It is a coincidence that the next distinct factor in the development of transportation in the United States which affected Congress directly had some connection with Latrobe. During the year 1800,[9] an American inventor, by name Oliver Evans, in seeking support for his schemes, approached Mr. Latrobe, and communicated to him the plan of a steam engine which he proposed, among other ends, to use for propelling carriages and steamboats. Latrobe pronounced the idea "chimerical" and absurd, saying that Evans "was one of the persons . . . seized with the *steam mania*, conceiving that wagons and boats could be propelled by steam engines." This is in keeping with

---

[6] It seems that the earliest railroad or tramway in the U. S. was in Boston in the year 1807. In 1809 Thos. Lieper, of Delaware county, Pa., constructed one from his quarry. These were very short and the rails were of wood. (See Ringwalt, *Development of Systems of Transportation in the U. S.*, p. 69.) These are railways in the generic sense of the term only.

[7] Brown, W. H., *Hist. of First Locomotive in America.*

[8] *Ibid.*

[9] This date is not certain. See *Niles' Register*, III, Addenda.

the point just noted, that Latrobe did not consider steam in his report to Gallatin, and it illustrates the attitude of the great majority at this time.

Evans, however, was an exception. As early as 1772 (or 1773)[10] when he was apprentice to a wagon-maker, he became filled with the idea of propelling wagons by other than animal power and soon turned to steam. In 1786 he petitioned the legislature of Pennsylvania for exclusive right to use his improvements in flour-mills, "as also steam wagons." His petition was granted as to the mill machinery, but no notice was taken of his transportation ideas. On presenting the same petition to the Maryland state legislature, and explaining "the elastic power of steam," together with his mode of applying it to wagons, it was granted on the ground that it would do no harm!

From this time on, Evans tried continually to interest others, but found few who could understand, and "no one willing to risque the expense of the experiment." His encounter with Latrobe was typical.

In 1804 he actually propelled by steam a scow mounted on crude wheels,[11] and a year later published a book describing his steam engine and giving directions for applying it to boats, and "carriages on turnpike roads." He obtained a patent for his mill improvements in 1808, and much litigation resulted from his attempt to maintain his rights.

Of greater importance as a direct influence upon Congress, however, was an open letter which Evans addressed "To Members of Congress" in 1816, through the columns of the *National Intelligencer*.[12] In this article he recounts his services and his trials, and concludes by asking each member to put certain questions to himself, one being: "What will the annual amount of the benefit be, when my Columbian engines shall be applied to work many thousands of mills, manufactories, *carriages on railway or smooth roads,* boats on the great

[10] He gives both dates: *Niles' Register*, III, Addenda, and X, 213.

[11] By order of the Phila. Board of Health, he constructed a sort of dredge for "cleaning docks." The machine being in a flat or scow, he added wheels, the axle-trees being merely of wood, and propelled the whole to the Schuykill river, which he navigated by means of a paddle wheel.

[12] See *Niles' Register*, X, 213.

Atlantic and western waters, raising the value of western lands 50 per cent—by lessening the time of going to market * * *; can any one calculate within one million of dollars?"

Thus, though Oliver Evans came directly before Congress with no distinct petition for railroads, and though Congress took no action on that subject at this time, his schemes and inventions together with the agitation and litigation which attended them, must be reckoned as an important factor in moulding the minds of the public and of Congress.

It may be said that Evans was a prophet of steam. A study of the newspapers of the day shows that between 1810 and 1820 speculations and inventions concerning steam became numerous. The steamboat was developed and was the wonder of the period. Evans represented—to some extent, led—this movement, and was prominent in directing attention to its application to land transportation.

Dearborn's Petition

Between the years 1809 and 1819 the subject of railways does not appear to have been discussed in Congress. The period, however, was one of many projects for improving internal communication and transportation. Even in 1814, in the midst of the War of 1812, there were numerous road bills before Congress, and a proposition was introduced to take up a national system of internal improvements along Gallatin's lines.[13] In his message of 1816, Madison urged that measures be taken to bind "more closely together every part of our country, by promoting intercourse and improvements."[14]

The subject of railways next attracted the attention of Congress in the shape of a petition for assistance in carrying on an experiment.[15] In 1819, Mr. Mason (Mass.) presented the prayer of one, Benjamin Dearborn, stating that he had invented a mode of propelling wheel carriages by steam. Dearborn

[13] See *House Journal*, *1814*, under *Roads* and *Internal Improvements*.
[14] *H. J.*, *1816-17*, p. 14.
[15] *H. J.*, *1818-19*, Feb. 12.

asked that an experiment be made to try the utility of his invention, and based his request on the ground that it was well calculated for the conveyance of the mails and any number of passengers, and that it would be perfectly secure from robberies on the highway.

The petition was referred to the committee on commerce and manufactures, and no further action was taken.

Rogers' Marine Railway

Commodore Rogers' "Marine Railway" is of little direct interest, as it was to be but a short inclined plane, limited in its use to launching ships or hauling them out of water for repairs; but it should be mentioned, inasmuch as it was a "railway." Its operation was as follows:[16] two walls extending into deep water were built parallel to one another, and "on these walls or tiers of piles, two platforms or railways" were erected. "These ways," Rogers said, "may, and for very heavy vessels ought to be plated with iron or other metallic substance. * * * Steam or horse power may be used."

Rogers, we are told, demonstrated the success of his scheme by hauling up the frigate Potomac before a great concourse of people, and President Monroe, who witnessed the feat, recommended it to Congress for an appropriation.[17]

Thus the idea of the railway,—of an iron-covered "way" upon which heavy objects might be transported with little friction, and of the application of steam to transportation on such a way,—was brought before Congress.[18]

---

[16] *State Papers, 1822-23, Naval Affairs*, I, No. 226.

[17] Jan. 27, 1823. *H. J., 1822-23*, p. 171. The matter was referred to the committee on naval affairs, which reported favorably, and recommended $50,000 appropriation. The matter was ordered committed to committee of the whole house on state of the Union, and nothing was done (*H. J., 1822-23*, p. 216). *Niles' Register*, XXIX, 181, contains the following item: "A ship rail-way, for the repair of vessels, is constructing in New York. * * * On the Thomas' principal of the ship rail-way, it is probable there will be no difficulty * * * in hauling out for repairs the largest ship for the navy. Dry docks are scarce and this will make a complete substitute." (1825)

[18] The marine railway came up in Congress again in 1829–30: *State Papers, Naval Affairs*, III, No. 422; IV, No. 589.

John Stevens; Government Experiments Proposed

Down to 1825 Congress did not play an active part in regard to railways. There was some discussion and agitation among the people, but it led to no experiment or assistance by the government; and Latrobe's report, Oliver Evans' letter, Dearborn's petition, and the discussion of Rogers' scheme were stimuli attended by no direct results. At the end of the first quarter of the nineteenth century, however, Congress took up the question,—for it was a question,—with more active interest, and a number of projects for experiments and actual construction by the general government indicate this change.

The origin of the new attitude may be ascribed in general to the rapid development of railways in England and the successful application of steam to transportation upon them. In this connection, too, the effect that the extended and improved use of steamboats must have had in preparing men's minds for considering the application of the same power to land transportation should not be overlooked.[19] But the particular and immediate cause lay in the activity of Colonel John Stevens of Hoboken; and in order to fully understand this, it will be necessary to step back into the previous century.

John Stevens was born in New York City in 1749, and served as Colonel in the Revolutionary War. The event in his life that directly affects this history occurred in 1787, when, during a drive along the Hudson river, he saw Fitch's crude steamboat. He became interested in the subject, invented a marine engine, a multi-tubular boiler, and used the first double-acting condensing engine made in America. About the year 1812 he turned his attention to railways, and addressed a memorial[20] to the board of commissioners of the Erie canal, advocating a double-track railway in place of the canal; but his plan was rejected as not feasible. His plan was for a raised wooden

[19] A writer in 1820 appealed to the U. S. Government to build a national highway to the West, and calculated on steamboats, "and on the application of the same moving power to carriages upon rail roads * * * ." Mills, Robt. *A Treatise on Inland Navigation* (Balt., 1820), p. 59.

[20] See *Documents tending to prove the superior advantages of railways and steam-carriages over canal navigation.* (N. Y., 1812, and a reprint, 1852.)

railway; it contemplated steam traction, and both passengers and freight were to be transported at a greatly reduced cost at a speed of twenty to thirty miles an hour.

In 1815, Stevens obtained a charter from New York for a steam railway from the Delaware to the Raritan, the first railroad charter granted in America; and in 1824 Pennsylvania gave him a charter for a railway from Philadelphia to Lancaster; but neither project was carried out,[21] for though he made every effort, capitalists could not be induced to take them up. In October of the latter year, however, he was given a patent by the government for the construction of railways,[22] and in the *Journal* of the House of Representatives for January 17, 1825, there appears the following notice: "Resolved, That the Committee on Roads and Canals be directed to inquire into the expediency of causing an experiment to be made at the seat of government, on a small scale, of the most improved mode of constructing roads, on the plan practiced under the direction of Mr. M'Adam, in England, *and of Railways, under the patent granted to John Stephens*[23] of Hoboken, in New Jersey."

In February the committee reported itself of the opinion that it would result to the benefit of the public "to make experiments in this District of a railroad and of a road constructed on M'Adam's plan, for short distances, and in places where they would be useful as well as for inspection."[24] No record is found of such an experiment, however, and no action appears to have been taken upon the report.

Yet this case is of great interest and significance as a beginning. For one thing, it throws light on the origin of railways in this country. From seeing steam at work on the water, Stevens was led to study it and finally to conceive a definite plan for railway construction. As early as 1812, he published the correspondence between himself and the canal commissioners, and brought his plan of construction and statement of the

[21] The charter was repealed in 1826.
[22] *State Papers, 1824–25*, II, 28.
[23] The name is so spelled in the text, though the index gives it correctly.
[24] *Appendix, 18th Cong., 2d sess.*, I, 77, (Feb. 6, 1825).

advantages of a steam railway over canals before the public. In 1824, he patented his plan, and in 1825 Congress was induced to inquire into the expediency of an experiment with it. Again, it should be noted that macadamized roads and railroads were considered on the same footing. Moreover, Congress took a highly paternalistic attitude in seriously considering the construction of a railway for "the benefit of the public." A further tendency in this direction came to light in the following year, when there was introduced in the House a resolution to the effect that the committee on roads and canals inquire into the expediency of making "a Railroad at the expense of the Federal Government."[25]

In December of this same year (1825), the aroused interest of Congress in railways was again apparent. It was resolved that there be an inquiry "into the utility of Railways, as a mode of conveyance for the mail in carriages, and as a means of transportation for heavy articles; and * * * the comparative cost of constructing railways and canals, and the relative advantages of the two modes of conveyance when formed * * * ."[26] The resolution brought no direct result, and no report was made.

Thus the year 1825 is clearly marked in the congressional history of railways as the beginning of an active interest on the part of the government.

Strickland's Report to the Pennsylvania Society for the Promotion of Internal Improvements

A further indication of this growing interest was shown in 1826. The House of Representatives then agreed to a resolution[27] for the purchase of twenty-five copies of a report on internal improvements, which report came to be prepared in the following way: in 1824 a society was organized in Phila-

[25] *H. J.*, 1825-26, Jan. 5, 1826. Resolution not agreed to.
[26] *H. J.*, 1825-26, Dec. 15, 1825.
[27] *Ibid.*, p. 361.

delphia for the promotion of internal improvement, to which end they published information concerning canals, roads, and railways, and otherwise agitated the subject. In January, 1825, this body resolved to send an engineer to England to collect information concerning these matters, and for this work William Strickland, architect and engineer, was chosen. In 1826 the results of his investigations were printed by subscription. In the list of subscribers' names appears this item: "House of Representatives of the United States, 25 copies." In the report some ten pages were devoted to railways,—construction of road-bed, rails, locomotives, and car-wheels being minutely treated, and suggestions for adaptations to conditions in the United States made.[28] Strickland came to the conclusion that locomotives might be employed on railways that were nearly level; otherwise inclined planes with stationary engines would be necessary. On the whole, he would seem to favor railways.[29] His report will be referred to in the section on structure and utility.

The First Railway Companies; the South Carolina Railroad

The five years which followed were years of rapid progress in the railway world. In England steam was successfully applied to the transportation of passengers on the Stockton & Darlington railroad, and by 1830 the Liverpool & Manchester railroad, begun in 1826, was in operation. In 1827 Stephen-

[28] Strickland, William. *Reports on Canals, railways, roads, and other subjects.* (Phila., 1826.)

[29] Since writing the above, the writer has found the following reference. In the *Proceedings of the American Philosophical Society* for 1854 (Vol. 30) appears an obituary read by Judge Kane before that Society—of which Strickland had been a member. Of Strickland's report he says: "He had witnessed the great experiment of the first locomotives * * * on the Liverpool and Manchester Railroad; and in closing his report upon this performance, he prophesied that railroads were destined to supersede canals; and when I was about to remit this passage to the printer, the Society's committee, and I think the Society itself, remonstrated strenuously against so perilous a committal on the part of a gentleman, whose opinions might be corresponded with their own. In the end, I rewrote the closing paragraph of the report at their instance, and so saved Strickland from declaring in advance what a large part of the world knows now to be true."

son established works for manufacturing locomotives, and in 1829 three English engines were imported into America. Nor was this country backward. In 1826 John Stevens demonstrated the feasibility of steam locomotion on a small experimental scale. In the same year a short railway was used to transport stone for the Bunker Hill Monument in Boston, Mass., and in 1827 at Mauch Chunk, Pa., coal was transported nine miles from the mine to water over a railway operated by gravity and mules.

The year 1827, however, is marked by more important events than the completion of this short and crude coal railway, for it was in this year that the first railways for general commercial purposes and for passengers were chartered,—the Baltimore & Ohio Railroad Company and the South Carolina Canal & Railroad Company. The Baltimore & Ohio Railroad Company was chartered by Maryland in April, 1827, and in the same month applied to Congress for assistance in surveying its route. This is the first case in which a railway company ever approached the Congress of the United States for aid; and, indeed, is the first appearance of a railway company in Congress. The early history of the Baltimore & Ohio will be treated at greater length in the following chapters.

The South Carolina Canal & Railroad Company is of more direct interest in this chapter of our Congressional history, inasmuch as a full report of its structure and purpose was laid before Congress. The proposed railway extended from Charleston to Hamburg, a distance of about one hundred and thirty-six miles.[30] It was the first railway in the United States planned for steam power, and upon it was run the first practical locomotive constructed in this country (1830). Work upon the road was begun in 1829, and it was in August, 1828, that the railway company applied for the assistance of goverment surveyors.[31]

---

[30] It was completed in 1833, and was for a short time the longest railroad under a single management in the world. Hamburg is on the Savannah river opposite to Augusta, Ga.

[31] *State Documents*, 1828-29, I, No. 1, p. 47.

On August 27, 1829, a United States civil engineer, detailed to this duty, made a report to the president and directors of the South Carolina Canal & Railroad Company concerning the Charleston & Hamburg railroad, which was in turn reported by the secretary of war to President Jackson, who submitted it to Congress.[32] The substance of this report follows.

The topography of the region to be traversed was described as eminently suited to the work, from the level character of the land. The use of wood was advocated in the construction of the road, the rails to be of yellow pine and to rest upon sills of lightwood[33] or live-oak. These sills were to be eight feet apart, and the rails to measure at least six by nine inches, the rail and sill being let into each other sufficiently to secure them in their places and made fast by a locust or live-oak key. In place of embankments, it was proposed to raise the road on posts or piles. When it became necessary to replace the road, sills of stone might be used, to which the wooden rails would be fastened by iron chains; or, if a still more durable track were desired, the rails might be covered with plates of iron, as used in Massachusetts, or by "rails entirely of iron, according to the English plan."

The report also stated that it would be unwise not to make the road adaptable to both horse power and steam locomotives, and, as has been already stated, this was the first road in the United States built with the idea of using the locomotive engine. It was suggested that the weight of locomotives be reduced as much as possible, and that a premium be awarded for the "best model of a locomotive engine, combining lightness and power, and adapted to the use of light wood." The laying of a single track was advised, on the ground that the traffic did not warrant a double track.

In conclusion, the military advantages of the railway were pointed out.

The plan set forth in this report was followed, except that

[32] *State Papers*, 1829–30, I, No. 7, p. 26.

[33] Lightwood is a pine wood abounding in pitch, found in the South.

the rails were covered with flat iron bars from the outset, and it should be observed that it was essentially identical with the construction proposed by John Stevens in 1812, who would have raised his track above the ground in order to protect it from snow and dust. Both plans adopted wooden rails, although contemplating the possible necessity for iron, and both were designed for steam power.

CHAPTER II

The Railway Enters Congress: Early Ideas as to Structure and Utility

"A railroad," wrote Latrobe in 1808, "consists of two pairs of parallel ways, one pair for going and the other for returning carriages."[1] Among the documents submitted to Congress in 1832 was a report of the New York railway commissioners which gravely propounds that "the principle on which the railway operates * * * differs essentially from that of a canal. In the latter, the body to be moved is sustained by the greater gravity of the fluid on which it is placed. * * * In the former, the weight to be transported is sustained on rollers or wheels, and is made to move * * * along the hard and even surface of planes, either level or partially inclined."[2]

Little more need be written to indicate that the railway was in its infancy.

(a) *Track.*

Of the various parts that go to make up a modern railway system, the way or track first came to the attention of Congress. Latrobe described the construction deemed suitable to this country in 1808. The rails were to be of cast iron from three to six feet long, five-eighths of an inch thick, and fifty-six pounds in weight, i. e., twenty-eight pounds per yard. The cross section of this rail would have been in the shape of the letter L, a two-inch "flanch" or projection on the outside serving to keep the wheels upon the track. The ends of the rails were to be fastened to cross-pieces of wood, though the use of stone

[1] See above, p. 182.

[2] *Executive Documents, 1831–32*, No. 101, p. 222.

foundations was mentioned as being far more durable, it being stated that "such roads will last for ages." The cost for a mile of single track, the wooden cross-pieces being used, was estimated at $5,000.

In 1812 Colonel John Stevens proposed to construct an elevated track entirely of wood, though the possible necessity for iron reinforcement was considered. Such a railroad would have been one long trestle-work. Stevens at first estimated the cost of construction at $4,166 per mile;[3] later he gave $12,369 as the cost of a railway with brick pillars, timber ways, and bar iron plates.[4]

Oliver Evans, in the same year, mentioned Stevens' plan with approval,[5] but spoke of one, John Ellicot, who "proposed to make roads of substances, such as the best turnpikes are made with, with a path for each wheel to run on, *having a rail-way on posts in the middle to guide the tongue of the wagon*, and to prevent any other carriage from travelling on it. Then, if the wheels were made broad, and the paths smooth, there would be very little wear. * * * Such roads," he observed, "I am inclined to believe, ought to be preferred, in the first instance, to those proposed by Mr. Stevens," being cheaper. Stevens' and Evans' plans, however, did not come before Congress directly.

The next report that came prominently before Congress was that made by Strickland to the Pennsylvania society in 1825,—published 1826,—and it indicates considerable progress on most points. Two classes of rails were mentioned: (1) "plate rails" or tramway plates; (2) edge, or fishbacked rails. The latter, it is stated, were coming into general use. The former correspond to the rail proposed by Latrobe. Moreover, Strickland said that either cast or malleable iron might be used, but he did not attempt to decide which was the better, leaning toward the cast iron rail on the ground that experience had tried it. They were to be four feet long, and fitted into stone blocks at their ends, being held by cast iron standards or chairs fast-

[3] *Documents tending to prove the superior advantages of railways, etc.*, p. 27.
[4] *Ibid.*, p. 43.
[5] *Niles' Register*, III, Addenda.

ened to the stone. In some cases, however, we are told that oak blocks were used, and that some such device might be advisable in the United States wherever stone was scarce. The heavy frosts in this country, he thought, would necessitate a bed of crushed stone for supporting these blocks, and sleepers would be necessary where the ground was not hard, as on embankments, in order to prevent spreading rails. Strickland anticipated great difficulty in keeping the rails free from dust and gravel. He minutely described "passing or sideling places." Such a road as he proposed would cost about $10,000 per mile.[6]

The construction used for the Charleston & Hamburg railroad has already been mentioned. Here wooden rails, capped with iron strips, were adopted, and trestles used in place of any embankments. The road cost about $13,000 a mile.

The South Carolina railroad, too, is remarkable as being the forerunner of what may be called the "American System of Construction." It was built with the idea that traffic would develop, and no attempt was made to make it a permanent structure. Wood was used not only for rails,[7] but also for the ties or "sills," and but a single track was laid. The Baltimore & Ohio and other early railways were modeled more after the English roads. Thus they used granite blocks or sills instead of wood. The Baltimore & Ohio started out as though for all time, with a double track and an ambitious system of grades and bridges, which caused considerable financial embarrassment for a period. Furthermore, the cost of construction was not adapted to the traffic to be hoped for in any short time.

[6] The following is the itemized estimate as presented by Strickland:

1. Cast iron edge rails, stone foundation, chairs, preparation of horse and attendant paths, etc	£1,474
2. Forming and draining level ground	38
3. Cuts and embankments	256
4. 1 wooden bridge and 1 stone culvert	60
5. 4 acres of land (a strip 30–40 ft. wide)	80
6. Fencing, including gates to farms	200
	£2,108=$9,359

(At this time the English pound equaled about $4.44.)

[7] It was quite general in this country to use wooden rails, these being overlaid with "straps" or bars of iron.

It may be said that in the one case, according to what may be called the English system, they built above the traffic; while in the other they built beyond it; and as compared to the fourteen miles of carefully graded, stone-silled track[8] of the Baltimore & Ohio, we have the one hundred and thirty-odd miles of wood-tied, single track of the Charleston & Hamburg, constructed in but little longer time.

In the New York report quoted above,[9] the most approved construction is stated to be that of the Baltimore & Ohio, which was described as follows: "A line is first graded, free from short curves, and as nearly level as possible. A small trench is then formed for each track, which is filled with rubble-stone, on which are laid blocks of granite. * * * Bars, or plates, of wrought iron, near an inch in thickness, are then laid upon these blocks or rails * * *, and fastened to the stone with iron bolts or rivets. The distance between the two tracks, for the wheels, should be about five feet. * * * This, it will be perceived, renders the work proof against delapidation, and creates but a trifle more expense." (i. e. the use of stone instead of wood.)

The idea that some support other than earth was necessary was quite general at this time. Thus, in *A Treatise on Railroads*,[10] Thomas Earle says, "Wherever the ground is not solid, it is necessary to build walls, or fill trenches or pits, with broken stone or gravel, for the support of the props upon which the rails are to rest." (p. 19.) The supposed necessity for this construction hampered railway extension through its costliness, and served as an argument for those opposed to it.[11]

In general, it may be said that prior to 1830, any discussion concerning the railway proper centered around the use of stone or wood in construction, and the opinion prevailed that the

---

[8] The Baltimore & Ohio soon adopted less expensive and more practicable construction.

[9] p. 195.

[10] Philadelphia, 1830.

[11] In 1812, Robt. R. Livingstone objected to Stevens' plan, that it would be necessary to extend walls beneath the earth far enough to avoid frosts and above it to escape the snow. (*Doc. tending to prove sup. adv. of railways*, publ. by John Stevens, N. Y., 1812, p. 24.)

former was superior for a work of any permanence, or for dense and heavy traffic.

Very shortly after 1830, however, this idea was abandoned,[12] and in 1832 the engineer of the Baltimore & Ohio reported in favor of a comparatively modern track for the Washington branch. Wooden ties, three feet apart, were proposed, and for greater strength, wooden strips were to be placed below as well as above these ties. The upper strips were to support iron rails fifteen feet long and weighing thirty-two pounds to the yard.[13]

It is scarcely necessary to state that a steady increase in the weight of rails per yard took place. From the 28-pound rail proposed by Latrobe and the 32-pound rail just mentioned there was a rise till a government engineer in an estimate for a Florida railway, submitted 1842–43, proposed a rail of 60 pounds weight to the linear yard.[14] These estimates are representative of the increase in actual construction.

It seems that many thought even a double track insufficient, maintaining that numerous tracks would be necessary for trains running at different speeds and in different directions.[15] It was objected that all travellers must have the same rate of speed or else there must be frequent "turnouts" (sidings), which would multiply casualties: and again that railways could not be accessible at all points, and at no point without interrupting the current of "wagons," unless the same fatal resort to "turn-outs" should be taken.[16] It was frequently urged that mud and dust in summer and snow in winter would render a railway impracticable.[17]

---

[12] The early construction was soon abandoned by the Baltimore & Ohio and several different kinds of construction were illustrated in a few hundred miles of its track. See Tanner, H. S., *Canals and Railways of the U. S.*, 1840, p. 150. A typical case was that of the railroad from Newcastle to Frenchtown in Delaware. The road was 16 miles long; the first 9 miles were laid with stone blocks; for the rest hemlock planks were laid down on sand or gravel; on these white oak ties were placed 3 feet apart; then 6 x 6 Georgia pine string pieces, which supported iron rails 2¼ inches wide and ⅝ inch thick. Total cost $22,000 per mile, including all expenses, save depots and the like. (*Exec. Doc., 1831–32*, No. 101.)

[13] *Exec. Doc., 1831–32*, No. 101, p. 215 ff.

[14] *Sen. Docs., 1843–44*, II, No. 62, p. 19.

[15] *Ibid.*, No. 18.

[16] *Ibid.*

[17] *Ibid*, and in the *Treatise on railroads* quoted above, Earle says, "The action

(b) *Locomotion.*

As to the power to be used, there was question in Congress as well as in the minds of engineers. Earle writes: "The first thing to be determined in the formation of a Rail-road is the kind of power that is to be employed on it, whether horses or steam-engines;"[18] and that was the question. The locomotives constructed prior to 1830 were weak, crude affairs, and far too ponderous in proportion to the power they developed. Strickland reported that where a considerable distance "admits of being made so nearly horizontal as not to deviate more than * * * 27 feet six inches a mile, locomotive engines may be employed to great advantage," and he thought inclined planes and stationary engines must be used for any steeper ascent. After 1825, however, remarkably rapid progress was made, and some ten years later a government engineer reported that the maximum grade was assumed to be ninety-two feet to the mile![19]

By 1830 it was generally admitted that the steam engine could haul a greater load *at a greater speed* than the horse, and that it could do it more cheaply. But numerous objections were urged, such as meet any innovation. Steam engines were dangerous, being liable to explosion and accident; they caused great wear and tear, and made more expensive construction necessary; great skill would be necessary for their operation, and so on.

However, what caused most question was the utility of steam for hauling heavy, bulky commodities. The report of the English commission on steam navigation, which was studied and printed by Congress, assumes that for bulky objects, where speed was of little importance, horse traction would be cheaper[20] and the great field for railways was supposed to lie in the transportation of passengers. It will be remembered that the first railways were built at collieries, and that Latrobe thought that such traffic alone warranted railways in this country; so by 1830 ideas were to some extent revolutionized. For this change two reasons may be given: (1) there had developed a struggle

of the horses' feet" would throw gravel and dust on the track, increasing friction and lessening adhesion.

[18] *Treatise on Railroads*, 1830, p. 5.

[19] *Exec. Doc. 1835–36*, III, No. 230.

[20] *Exec. Doc., 1831–32*, No. 101.

between the railway and the canal, in which it was seen that the latter could compete for low grade traffic alone; hence its supporters would profit by such an argument: (2) the early, imperfect application of steam instead of horse-power gave some ground for the idea. It was thought in 1825 that locomotives were not practicable on any but comparatively level roads.[21]

The steam locomotive, however, was not the only means of traction which came before Congress, for both compressed air and electricity are found mentioned in Congressional proceedings as possibly superseding or supplementing steam. The South Carolina Railroad Company had to overcome a difficult grade of a mile or so in length and it seemed that it could not be successfully done by locomotives. Stationary engines were considered, but the company inclined toward the use of a new means—the atmospheric railroad—and at the 1844–45 session of Congress a bill was introduced authorizing the importation of machinery and pipes for such a railroad free of duty. In answering objections, Mr. Evans said that it was a recent English invention which experiments had shown to answer exceedingly well for short distances, that the materials could only be obtained in England, from the inventor himself, and that the importation would benefit rather than injure Pennsylvania iron manufactures by ultimately increasing the home demand.[22] But after this discussion the matter was dropped.

A few years later Senator Benton, in advocating a national railway to the Pacific, desired room for "a track by magnetic power."[23] The idea, he believed, had originated with a Prof. Henry and had been "plausibily pursued" by Prof. Page of the Patent Office. "Who can undertake," asked Mr. Benton, "to say that any idea will not become practicable in the present age?"

(c) *Speed.*

As to speed the estimates and prophecies were various. Robert Livingstone in objecting to Stevens' scheme thought that the road would hardly bear so heavy a load as a locomo-

[21] Strickland, *Report*, p. 31.
[22] *Cong. Globe*, 1844–45, XLV, 296.
[23] *Ibid.*, 1848–49, XX, 473.

tive and its cars at a speed of four miles an hour. Stevens, on the other hand, thought that forty of fifty miles an hour were possible, though from twenty to thirty miles would probably be best in practice.[24] In the field of transportation, as in so many others, there were large-minded men who were in advance of their fellows and their time,—who cried out in a wilderness. In a work published in 1813,[25] Oliver Evans, who, like Stevens, was seeking assistance for railway projects, wrote, "The time will come when people will travel in stages moved by steam engines, * * * almost as fast as birds fly, fifteen or twenty miles an hour. * * * A carriage will set out from Washington in the morning, the passengers will breakfast at Baltimore, dine at Philadelphia, and sup at New York, the same day."[26]

Thirteen years later men were hardly more sanguine. In 1826 Mr. C. Crozet, an engineer quoted with approval in Armroyd's work on internal navigation, stated, "a rate of speed of more than six miles an hour would exceed the bounds set by prudence, though some of the sanguine advocates of railways extend this limit to nine miles an hour."[27]

By the close of the third decade—after the experiments on the Liverpool & Manchester railroad, and the opening of the Baltimore & Ohio railroad and the Charleston & Hamburg line in this country—the engineer of the Baltimore & Ohio, Jonathan Knight, conceived that if a velocity reaching from fifteen to twenty, or occasionally thirty miles an hour, were to be employed, very heavy, strong tracks would be necessary.[28] He gave the utmost performance of a locomotive for that time as being twenty miles per hour, drawing a load of fifteen tons on a level road. In the same year much was made of the fact that on the Mauch Chunk railroad, where animal traction was used, the very high velocity of from twelve to fifteen miles an hour

[24] *Doc. tending to prove sup. adv. of railways*, p. x, Introd.

[25] There is some doubt as to this date: see Ringwalt, *Dev. of Systems of Transp., in U. S.*, p. 65.

[26] *Ibid.*

NOTE: Horses and oxen riding and working a kind of treadmill were tried, and several experiments were made with sails.

[27] p. 570.

[28] *Exec. Doc., 1831–32*, No. 101, p. 149 ff.

made the horses and mules sick, and the wagons could not be kept in repair, so the speed was reduced to from five to seven miles per hour.[29] Josiah White, acting manager of this road, wrote an article for the Mauch Chunk *Courier,* in which he stated that, although a speed of sixty miles an hour might be attained yet about six miles an hour would be most economical for heavy loads,—higher speed only being profitable for passengers and valuable goods that would bear heavy tolls.[30]

(d) *Cars.*

From the beginning of railroad agitation in this country, it was seen that special vehicles were necessary, and Latrobe wrote to that effect.[31] In the discussion brought before Congress in 1831–32 various devices for decreasing friction in the wheels were mentioned.[32]

(e) *General Utility; Future.*

It is, perhaps, not strange that the railway, especially the steam railway, was looked upon as a huge, complicated mechanism by the men of the early nineteenth century. It is so regarded today. But this fact was made an argument against the introduction of the system, and it was stated by many that wear and tear, liability to get out of order, and inability to regulate its complicated action, would make it impracticable. It must be remembered, however, that the interested opposition of canal and turnpike companies gave expression and persistence to such arguments.

When the first few miles of the Baltimore & Ohio had been completed successfully, it was argued that while a railway from ten to fifteen miles in length might do, one reaching to the mountains would be impracticable. To some men of those times it seemed that the country was too rough, and

[29] *Exec. Doc., 1831-32,* No. 18, p. 163 ff., *Report of Acting Manager, Josiah White.*

[30] *Ibid.* NOTE: In 1831 the first practical American locomotive, "The Best Friend", made sixteen to twenty-one miles an hour, and Peter Cooper's "Tom Thumb"attained a speed of twelve and a half to fifteen miles an hour. Brown, W. H. *Hist. of first Locomotive in Amer.*

[31] In England the first railways were adapted to ordinary carriages, and this determined the gauge of tracks which has been generally followed ever since in that country and the United States.

[32] For an account of early cars, see *Exec. Docs., 1831-32,* No. 101, p. 149 ff.; Brown, W. H. *Hist. of First Locom. in Amer.,* pp. 96-106, 230; Ringwalt, J. L. *Dev. of Systems of Trans. in U. S.,* pp. 101-103, and index.

too poor and backward to make the railway expedient. Latrobe thought this factor limited the usefulness of railways, and a memorial of the Chesapeake & Ohio Canal Company in 1831–32 stated that experience had demonstrated the "utter unfitness" of this means of transportation over so rough and unimproved a surface as our country affords, the "present condition of the wealth, arts and population of the United States" being considered.

But there were, on the other hand, as early as 1812, at least a few men in this country who believed in the future of the railway, and by 1830 they were in a majority.[33]

Reference has already been made to the fact that by 1830 ideas as to the kind of traffic the railway was best suited for were greatly changed.[34] Without exception, the earliest railways were designed for and introduced in the transportation of coal and the like. But between 1820 and 1830 the belief came into prominence that the railway would only be able to compete profitably with canals as to speed in the transportation of passengers and of the lighter commodities having high specific value. But, again, there were those who supported railways in all fields, and the course of a very few years modified views on this score.

One interesting idea which was early advanced was that the demand for them and the facility with which they could be constructed would lead to a too rapid construction of railways with disastrous results. This prophecy was to be widely fulfilled.

The status of the railway question in 1830 may be drawn from two conflicting utterances, the one by its opponents, the other by its partisans. The memorial of the Chesapeake & Ohio Canal Company referred to above says, "The time, though remote, may, possibly will, arrive in America when mere speed of transporation will warrant the very heavy cost of constructing railways of such graduation, and of so many different tracks, as to admit of various velocities for persons and property, moving at the same time in opposite directions; and

[33] This probably was not true as to steam railways.

[34] p. 200.

of the substitution on each of these tracks of locomotives, or even stationary steam engines * * * for animal labor;" but this time was remote.[35] But in 1830 Mr. Carson, of North Carolina, in speaking on the Buffalo-New Orleans road bill referred to a miserable, paltry, earthen road, and states that the committee proposing it had fallen in the rear of the march of science. He refers to the railroad as "that highest effort of the human intellect, in perfecting a system of road inter-communication, which, for ease, safety and expedition challenges the astonishment and admiration of the world." He does not mention cheapness of transportation in this list of virtues, and between the two outbursts,—between pessimism and optimism,—lay the truth.

The conclusions to be drawn from this chapter may be summed up as follows:

1. The subject of railway transportation was brought before Congress as early as 1808, and the activity of a few broad-minded, inventive men agitated the subject from time to time thereafter.

2. The railway was generally recognized as a permanent and useful factor in transportation by 1830, but

(a) There was doubt as to the grade of traffic it would take, and

(b) The advantage of steam over horse-power was not decided.

These conditions and ideas directed the attitude of Congress toward railways.

3. Construction was beginning to break away from English influence and to become cheaper and more elastic.

4. Congress had been appealed to, had shown active interest and paternalistic tendencies, but stopped short of actual construction.

[35] *Exec. Doc., 1831-32*, No. 18.

CHAPTER III

COST OF TRANSPORTATION AND RATES OF TOLL

Estimates of Cost

In the days of the first railways, both in the United States and in England, it was thought that the rates of charges for transportation on railways would be made up similarly to those obtaining upon ordinary roads and canals. From the beginning, however, the supporters of railways urged that rates would be much lower upon that means of conveyance than on turnpikes. Thus, Oliver Evans, in 1804, submitted a statement to the Lancaster Turnpike Company which was intended to show that one steam carriage such as he proposed would yield a larger net profit than ten wagons each drawn by five horses on an ordinary turnpike.[1]

And in 1812 John Stevens was even more definite and sanguine. He stated that much of our internal commerce was at that time only effected at a cost of 50 per cent. on the value of the commodity transported, whereas the railway would make a saving of at least nine-tenths of this charge and reduce the cost to about 5 per cent. Stevens proposed government ownership, arguing that a 5 per cent. toll, in addition to the 5 per cent. cost, would yield an enormous revenue; while at the same time it would save the remotely situated farmer some four-fifths of the charges he was then paying.[2]

In another place he estimated that one ton might be transported 280 miles for 50 cents, which would mean a rate of

[1] *Niles' Register*, III, Addenda, p. 5. Evans, however, did not contemplate a way of rails such as Stevens projected; see above pp. 185 and 196.

[2] *Doc. tending to prove the sup. adv. of railways and steam carriages, etc.*, p. ix, Introd.

about .178 cents per ton per mile. He showed that, even allowing double this amount, the cost would be only one-third the estimated rate for the canals, and so the state might collect a toll in addition, and still allow relatively low rates.[3] Stevens' estimates were made on the basis of steam locomotion.

In Strickland's report,[4] an English engineer's estimate is cited to the effect that the expenses of operating a locomotive would be less than 30 shillings for drawing 50 tons a distance of 60 miles in ten hours. This would equal less than half a farthing per ton per mile or about .22 cents.[5]

These estimates, it will be observed, are very low—lower, probably, than the cost could have been at that time. There was no basis for a true estimate of depreciation and cost of repairs or replacement.

B. H. Latrobe, who was opposed to railways, took the ground that, with a few exceptions, sufficient traffic could not be developed in this country to warrant the cost of constructing a railway.

In the documents relative to the comparative merits of canals and railroads[6] which were added to the English report on steam navigation, Jonathan Knight, engineer for the Baltimore & Ohio Railroad Company, gave the cost of transportation as being not greater than .75 cents per ton per mile,[7] and stated that on a level road it might be as low as .5 cents per ton per mile. These figures were based on a railway adapted to horse power.

In 1836, in a speech advocating a railway in place of the National Road, it was stated that the government would only need to charge about 2 cents per mile to keep the former in repair and pay costs of transportation.[8]

---

[3] *Ibid*, pp. 20–21.
[4] See above, p. 190.
[5] Counting a shilling as 22.2 cents.
[6] *Exec. Docs., 1831–32*, No. 101, p. 149 ff.
[7] *Ibid.*, p. 156.
[8] Mr. Jackson (H. of R.), *Cong. Debates, 1835–36*, p. 4495. This may refer to passenger rates.

Actual Rates*

In a document laid before Congress in 1831, the actual cost of transportation was given as 3.53 cents per ton per mile.[9] This cost was obtained from a road operated by animal power. It is interesting that a report to the New York canal commissioners, made five years later, stated the cost of transportation on a level railroad to be 3.5 cents.—practically the same amount. This report was severely criticised by railway men, however, as being based on a poorly constructed road which could not be called typical,[10] and it did not make allowance for the saving in time that resulted from the use of steam locomotion.

In 1831 the Pennsylvania canal commission, in its annual report, stated that the cost of transporting coal on the Mauch Chunk railway and on ten miles of railway from Tuscarora to Port Carbon was 4 cents per ton per mile, and that the toll on the latter road was 1.5 cents per ton per mile, making a total charge of 5.5 cents.[11]

In 1832 we find figures drawn from the early operation of a more perfect road. In debate over a proposed subscription to the stock of the Baltimore & Ohio railroad, Mr. Smith of Maryland read a statement of the cost of transportation by that railway.[12] For transporting a barrel of flour from the Point of Rocks to Baltimore, a distance of about seventy miles, this was 27 cents; the transportation of a ton of iron cost $3.17. This makes a per ton per mile rate on iron of about 4.5 cents.

As to passenger fares, we are told that in 1835 it cost $2.50 to travel from Washington to Baltimore, a distance of about thirty-eight miles, and this fare of over 6.5 cents per mile was remarked upon as a triumph of the railway over the stage.[13]

---

* See p. 214 for further cases.

[9] *Exec. Docs., 1831–32*, I, No. 18, p. 164:

Mules and horses	1 1/3 cents
Hands	1 1/3 cents
Repairing wagons	2/3 cents
Oil for wagons	1/5 cents

[10] See Ringwalt, *Dev. of Systems of Trans. in U. S.*, p. 49.

[11] *Exec. Docs., 1831–32*, No. 18, p. 178.

[12] *Cong. Debates, 1831–32, Sen.* May 24, p. 952.

[13] *Cong. Debates, 1835–36, H. of R.*, p. 4495. In 1840 H. S. Tanner wrote that

In a committee report of 1848–49 we find a general statement as to cost of transportation and something concerning the freight rates of the time. The average expense of transportation on the best managed roads of the country was reported to be about 2 cents per ton per mile. On the authority of the Baltimore and Ohio's 1848 report, the committee stated that the actual cost of transportation to that company was 1.849 cents per ton per mile, while the rate charged was 3.96 cents for a like unit.[14]

Most of these statements of actual rates were given by those interested in canals and opposed to the perfection and extension of railways; and in any case were those charged upon short, imperfect, horse-railways. Yet these were the only railways which had been in operation long enough to afford a basis for such statements. While the enthusiastic or far-sighted might foresee lower charges, it was natural that the high rates actually charged on such railways as there were should form an effective argument against their further introduction, and the broad and buoyant optimism of the men of those days surely appears in the slight retarding effect which was exerted by the imperfections of these first railways.

Limitations on Rates in Charters

As stated at the beginning of the chapter,[15] it was at first thought that railway rates would be made up similarly to those on canals and highways; hence it was customary to distinguish two elements in the charge: one for cost of the service rendered, another for "toll," being the net earning on the service.[16] Furthermore, it was thought necessary to provide

---

De Gerstner had concluded that 5 cents was the average passenger fare of the time.

See *A description of the Canals and Railroads of the U. S.* (1840), p. 22.

See also below, p. 213, note 29.

[14] *Rep. of Com., 1848-49*, No. 145, p. 28.

[15] p. 206.

[16] The former was a payment for transportation; the latter, or toll, was a payment for use of track, or "way". This proper and logical use of the terms was reversed in some cases, and it is the "toll" which varies with the direction of the traffic according to the charter of the Baltimore & Ohio.

for tolls on vehicles which might run upon a company's railway without belonging to the company.

As illustrating the latter point, and giving a manner of limiting rates very common in the earlier days, the charter of the Brunswick Canal & Railroad Company may be presented. Section 7 of the act by which this railway company was incorporated runs as follows: "* * * and the said company shall be entitled, and they are hereby empowered, to demand and collect by way of freight or toll, on all goods, wares, merchandise, and productions of the country * * * and cars or vehicles of any description, conveyed * * * over and upon said railroad, such rates of toll or freight as the board of directors of said company may find necessary to adopt from time to time in their regulations of toll; Provided, That during any twelve months together, the net amount shall not exceed 25 per cent per annum upon the aggregate amount of money they shall have actually expended in making, constructing, and keeping in good repair the said * * * railroad."[17]

The limitation of tolls by stipulating that they should not yield more than a certain percentage on the capital invested was quite general. For instance, a charter of 1835 restricted it to 20 per cent.;[18] in the same year another charter provided that if the rates of toll charged enabled the railway to pay more than 15 per cent. on its capital stock, "then the said rates of toll and transportation shall be so reduced * * * as to enable them to divide 15 per cent. and no more;"[19] and in 1836 the act incorporating the Illinois Central prescribed that if the average net earnings of ten years should amount to more than 12 per cent. on the cost of the road, the legislature of Illinois might reduce the rate of tolls.[20]

Such limitations were of little importance and could easily be evaded. They are chiefly significant as indicating a tendency to restrict and control.

---

[17] *Exec. Docs., 1836-37*, III, No. 122. This was a Georgia corporation created in 1834. Its charter appears in the documents of Congress in connection with a memorial.

[18] *Exec. Docs., 1834-35*, III, No. 126.

[19] *Rep. of Com., 1837*, No. 238.

[20] *Rep. of Com., 1836-37*, I, No. 121.

Maximum Rates

More important was the prescription of definite maximum rates of tolls on both passengers and freight, which might appear with, or without the above limitation on net earnings. As early as January 4, 1831, in discussing a bill authorizing the construction of a lateral branch of the Baltimore & Ohio to Washington, Mr. Semmes, of Maryland, submitted the following amendment: "Said company not to make any higher charges for tolls on transportation on any part of road * * * than are allowed by law for tolls and transportation from west to east on the B. & O. R. R. * * * *."[21] The charter of the Baltimore & Ohio railroad, as Mr. Semmes explained, allowed it to levy different rates of toll according to the direction of the traffic.[22] From west to east rates were not to exceed 1 cent a ton per mile for toll, and 3 cents a ton per mile for transportation; while from east to west the company had power to charge 3 cents per ton per mile for toll in addition to the 3 cent transportation charge. Thus the amendment would have reduced the average maximum freight rate by 20 per cent.; passenger rates were limited to 3 cents per mile.

As finally passed, however, the act authorizing the construction of a lateral branch of the Baltimore & Ohio railroad into the District of Columbia did not make the reduction, merely providing that rates of toll in the District should not exceed 3 cents per ton mile for toll, and 3 cents per ton mile for transportation;[23] that is, a maximum rate of 6 cents per ton per mile.

In addition, certain special rates were authorized for the exclusive use of cars or parts of cars for parcels not exceeding 200 pounds in weight:[24]

Parcels weighing 50 lbs. or less (or measuring 2 cu. ft.) 1 cent per mile.

Parcels weighing 50 lbs. to 200 lbs. 2 cents per mile.

[21] *Cong. Debates, 1830-31, H. of R.*, p. 400. There were other features in the amendment.

[22] See *Laws and Ordinances relating to B. & O. R. R. Co.* (Balt. 1834), p. 10.

[23] *Cong. Debates, 1830-31*, Appendix, p. 52, Section 1.

[24] *Ibid.*, Section 2.

Parcels weighing 200 lbs. to 1000 lbs. half ton rates.

Parcels weighing 1000 lbs. to 1 ton, ton rates.

In other words, any article or parcel weighing less than 50 pounds could be charged 1 cent per mile; if the parcel weighed more than 50 pounds, but less than 200 pounds, it would be liable to a rate of 2 cents per mile; a parcel of any weight between 200 and 1,000 pounds would be considered as weighing half a ton; while any article which weighed over 1,000 pounds went as though it were a full ton. Thus the wholesale principle, according to which small shipments are charged for at a higher rate than large ones, was early recognized, and was given extremely pronounced expression in this act of Congress.

Section 4 sets a maximum charge for passengers. The company was authorized to collect a sum not exceeding 12.5 cents "for taking up and setting down" a passenger carried less than four miles within the District. If the railway company had seen fit to charge the maximum, it would certainly have encouraged "through" passenger traffic!

The Virginia act of 1835,[25] which incorporated the Falmouth & Alexandria Railroad Company, contained like provisions, but the rates were even higher: it empowered the company to charge 8 cents per mile for passengers,—or, if the distance travelled were under ten miles, an extra charge of 50 cents "for taking up and setting down" was authorized,—and provided that freight rates were not to exceed 10 cents per ton per mile.

The charter of the Winchester & Potomac railway allowed a charge for transportation of 4 cents a ton per mile in the case of "descending articles," and 6 cents a ton per mile for "ascending articles," and passenger rates were not to exceed 3 cents per mile.[26]

Other charters are found in the Congressional documents which contain no limitation upon rates, or merely provide that rates shall not be changed without public notice in advance.[27]

---

[25] *Rep. of Com., 1837*, No. 238. Section 24.

[26] *Exec. Docs., 1837-38*, XI, No. 465, p. 17. The provisions for the Great Western Ry. Co. were the same: *Sen. Docs., 1843-44*, III, No. 142. Ascending traffic was that traffic on the up grade.

[27] E. g., *Sen. Misc., 1849-50*, I, No. 59, Pac. R. R. of Mo.

Maximum Rates of Significance

It might be thought that these maximum rates are without meaning and that they bear no close relation to actual rates of charge. There is ground for believing that such is not the case, however,—at least down to 1836.

In the first place, we find the canal companies complaining that they were suffering in that by charter they were limited to lower rates than were the railways.[28]

Again, in the president's report for 1836, it was stated that rates on the Baltimore & Ohio were too low, partly in consequence of which the road was in poor financial condition. A list of the authorized rates on other roads was presented to show that the maximum was not high enough.[29] This statement has no significance unless it means that at least in some cases rates were as high as the maximum.

The committee on roads and canals reported to the House in 1836 that "In the construction of the Cotocton aqueduct * * * it was found to be good economy to transport upon the Baltimore & Ohio railroad * * * the granite * * * at the charge of 6 cents per ton per mile."[30] The report would seem to indicate that in this case the maximum rate was charged.*

---

[28] *Exec. Docs., 1831-32.* I, No. 18, pp. 193, 197. Of course, this complaint was illogical. It conflicted with the argument that the canals afforded much cheaper service than railways.

[29] See Reizenstein, M., *Econ. Hist. of the B. & O. R. R.* in *Johns Hopkins University Studies*, XV, 361. The list is as follows:

Railway	Pass. rate (per mi.)	Frt. rate (per ton per mi.)
Petersburg	5 cents	10 cents
Winchester & Potomac	6 "	7 "
Portsmouth & Roanoke	6 "	8 "
Boston & Providence	5 "	10 "
Boston & Lowell	3½ "	7 "
Mohawk & Hudson	5 "	8 "
B. & O. Old Law	3 "	4 "
" New "	4 "	6 "

[30] *Rep. of Com., 1835-36*, III, No. 671.

* Note.—As further evidence that maximum rates were charged and as showing some actual rates, the following material taken from pp. 67-68 of the *Jour-*

Rates Based on Cost

The provisions in the charters of the Baltimore & Ohio and Winchester & Potomac railways, noted above,[31] which allow different rates of charge on articles moving in different directions, are interesting. The fact that building railways on any considerable angle of ascent would make cost of transportation vary according as the traffic moved up or down, was among the first facts in railway economics that was grasped by engineers. In 1825, Strickland in his report explained that if traffic were equal both ways, a level road was to be preferred; otherwise such an inclination as favored the heavier traffic. The report of the government engineer to the president and directors of the South Carolina Canal & Railroad Company contained a minute calculation of the relation between ascent and volume of traffic which would make equal power sufficient for transportation both ways.[32]

Mr. Semmes, in referring to the provisions of the Baltimore & Ohio in this regard, stated that the heavy expenditure for constructing the road from Baltimore westward, and for procuring engines and cars to transport heavy articles up a con-

---

nal of the Internal Improvement Convention, held in Baltimore, Dec. 8, 1834, is of interest:

Table Showing Cost of Transportation by Existing Works

From Baltimore to Wheeling

By the Rail Road to the Point of Rocks (70 mi.) at 6 cents West and 4 cents East or an average of about 5 cents per ton per mile, say...	$3 25
By the Canal, thence to Dam No. 5 (60 mi.) at 2 cents freight and 2 cents toll, or 4 cents per ton, 2240 lbs. being for 2000 lbs.....	2 14
By the Cumberland and National Roads, thence to Wheeling (57 mi.) per waggon, carrying 5000 lbs. at $4. per day, allowing 11½ days, would be, per 2000 lbs.....	18 40
Whole cost, per 2000 lbs..	$23 79

Calculations of com. "have been formed on the present rates of transportation on the Balt. & O. Rail Road.—and the Chesapeake & Ohio Canal.—*which are the highest rates of tolls that can be charged* on either of said works." A'so assumed traffic E. & W. to be equal.

(*Report on cost and time req. to trans. merchan. and pass. between Balt. & the Ohio river.* Signed John Davenport, Ch'n.)

[31] pp. 211, 212.

[32] See above, p. 193.

tinuous ascent over the mountains had induced the legislature of Maryland to allow a greater charge from east to west.[33] Moreover, the same provision existed in the charters of many other railways.

Clearly the idea prevailed that rates were to be based solely on cost,—upon weight, bulk, distance, and grade.

[33] See above, p. 211.

CHAPTER IV

RAILWAYS VERSUS CANALS
1830–1840

Railways did not Find a Clear Field

When the railway came it did not find a clear field. It found well-established canals and turnpikes already occupying many of the most profitable routes, and those whose fortunes were sunk in such systems naturally made every possible objection against a means of transportation which would rob their investments of value. For some time, too, unbiased engineers were in doubt as to the relative merits of railways and canals, in which doubt Congress shared. It is the purpose of this chapter to describe the early conditions in this regard, in so far as they bear upon the attitude of Congress toward railways, and to trace briefly their development down to the time when the railway superseded the canal as a means of internal improvement which could be regarded as national. Incidentally light will be thrown upon the general question as to when the railway became predominant in the greater part of the field of transportation.

The House Inquiries: 1825

In 1808 Latrobe had written that railways could not be adopted to advantage in this country, and Gallatin's report merely proposed canals and turnpikes. Everyone knew that in 1812 Stevens' proposal to substitute a railway for the projected Erie canal had been rejected by the commissioners. Rapid improvement in track and locomotive, however, soon put a new face on matters, till in 1825 William Strickland could

write from England, that railways had received numerous tests which proved them to be practicable, and he announced that one was about to be constructed from Newcastle to Carlisle in preference to a canal.[1] At about this time, too, the Liverpool & Manchester railway was being planned to parallel a well-established and profitable canal.

These developments could not but affect the proceedings of the Congress of the United States, which, as we have seen, was continually considering plans for improving the transportation and communication facilities of the nation. It is more than a coincidence that on December 15, 1825, it was resolved by the House of Representatives[2] that its committee on roads and canals be instructed to inquire into the utility of railways, and that it report to the House upon the comparative cost of constructing railways and canals, together with the relative advantages of the two modes of conveyance. The resolution implies a desire to encourage a system of "internal improvement;" but it was not clear that the railway was practicable, or that it was a better system than canals afforded.

Just as the year 1825 marks a growth of active interest in railways, so it is the time when the question as to the relative merits of canals and railways came before Congress as an important one.

Congress Experiments: 1830

Between 1825 and 1830 improvement in railway construction was especially rapid, yet even at the latter date its superiority was not clear. In that year the committee to which was referred a memorial of the Baltimore & Ohio Railroad Company mentioned the fact that the Chesapeake & Ohio canal and the railway were proceeding over the same territory, and rejoiced that a direct and conclusive experiment was now to be made.[3] Accordingly a bill was reported for aiding the railway as far

[1] *Reports on Canals, Railways, etc.* (Phila. 1826), p. 23. 25 copies of this report were purchased by the House of Representatives, see above, p. 190.

[2] *H. J., 1825–26.* See above, p. 190. No report was made.

[3] *Rep. of Com., 1829–30,* II, No. 211.

as the Point of Rocks, where it came together with the canal.[4] The committee only reported after having "reflected much on the interesting question, now in agitation in England and this country, namely, whether railroads are to be preferred to canals in ordinary cases, and on routes where there are no intermediate water communications;" and they wished it to be understood that not the slightest preference was to be given to either.

This report was made notwithstanding the opposition of the Chesapeake & Ohio canal, and in spite of the impartial words used, it would seem to indicate a strong tendency toward the railway,—especially in the light of later developments. But it shows that people were still divided on the subject.

The Baltimore & Ohio Versus the Chesapeake & Ohio

In this connection the struggle that was taking place between the Baltimore & Ohio Railroad Company and the Chesapeake & Ohio Canal Company is typical of the status of affairs in general. An account of this controversy, so far as it throws light on the subject of this chapter, follows.[5]

The Chesapeake & Ohio Canal Company was chartered by Virginia in 1824, and in 1825 Congress confirmed that charter. The books of the company were opened, and by November, 1827, one-fourth of the stock being subscribed, the corporation was established. In the same year, at a public meeting in Baltimore, a report was adopted according to which the legislature of Maryland was applied to for a railway charter; the charter was granted; the Baltimore & Ohio Railroad Company came into existence as a corporation. In April of the same year, the company applied to the government for surveyors.

Now, the railway company had made it known that they intended to proceed toward the Ohio by a "direct route," and this fact, together with the saving in time and expense sup-

[4] The report was not favorably acted upon.

[5] This account is drawn almost entirely from Congressional debates and documents. For a more general account, see *J. H. U. Studies*, XV, 285 ff; XVII, 519 ff.

posed to accompany it, aided it in securing favor. The company, moreover, was well acquainted with the projected canal route, which followed the line of the Potomac river. In 1828, however, when construction was begun, instead of taking a direct route, it proceeded to survey its way along the Potomac valley, and soon came into contact with the canal at the Point of Rocks, where but a narrow strip of land was available along the river. Controversy arose, and was soon carried into the courts.

Both of these corporations had been aided by Congress, the canal company by a subscription to its stock, and the railway by government surveyors. Moreover, both were seeking further assistance, so the conflict came prominently before Congress. In 1829 the canal company memorialized Congress,[6] stating that by its charter it was authorized to construct a *railway* on its "middle section" over the Alleghenies; hence this railway (the Baltimore & Ohio), which was asking assistance[7] was usurping its place. Further, it asked that no opinion be expressed as to the relative legal pretensions of the opponents.

Meanwhile, the legal controversy thickened. An injunction was obtained from the Washington county court by the canal company against the railway. The railway company in turn secured an injunction against the canal company, which had attempted to rush its construction through; but, upon appeal, the canal company won, and the railway had the worst of it on the legal side. Popular opinion, however, supported it, and, through the state legislature, pressure was brought to bear upon the canal company[8] which resulted in a compromise. In 1833 it was finally agreed and settled that in return for a subscription for 2,500 of its shares by the railway company, the canal company was to build both systems through the Point of Rocks.[9] This was a victory for the railway.

---

[6] *Sen. Docs., 1828–29*, II, No. 99.

[7] The Baltimore & Ohio presented a memorial asking stock subscription, December, 22, 1828. See below in chapter IX.

[8] *Exec. Docs., 1832–33*, No. 113.

[9] The nature of this compromise accounts for a memorial of the president and directors of the Baltimore & Ohio R. R. Co. in favor of a further subscription of stock in the Chesapeake & Ohio Canal Co., which was presented in 1834 (*Exec. Docs., 1833–34*, III, No. 95). The redundancy of the revenue and the national

The Baltimore & Ohio—Chesapeake & Ohio Controversy Typical of the Time

It is to be emphasized that this controversy is of more significance than a mere squabble between the interests of two corporations. It typifies the general situation that existed in 1830 as regards the transportation question. It was not the fate of the Chesapeake & Ohio canal alone that was decided, but that of many others. The Chesapeake & Ohio was the result of years of agitation and planning, for it had sprung from the ruins of an earlier project by the Potomac Company, to the establishment of which the interest of Washington himself had contributed. The founders of the new canal plan had only decided upon that plan after much discussion, in which the railway figured as a possibility, and the railway was rejected. In the minds of most men down to about 1830 the canal was the beau ideal of perfected transportation. At the close of this third decade, however, at least four factors combined to work a revolution. These factors were: (1) the growing extent and importance of the West; (2) the decline, real or feared, of the Atlantic coast states south of New York; (3) the realization of the limitations of canals from topographical conditions, —mountains, lack of water etc.; (4) rapid progress in railroad invention and improvement. They centered in Baltimore.[10] It was the working of these forces, given point by the rivalry with New York City, that made the triumph of the Baltimore & Ohio railroad possible at this time, and its triumph opened the way for others.

Exactly the same forces[11] were at work at Charleston, and led to the establishment of the Charleston & Hamburg Railroad Company only a few months later.

As has been observed, this controversy came prominently before Congress, and it has been intimated that that body virtu-

character of the work were urged as grounds for granting $1,000,000 to be expended on the western section of the canal.

[10] See *Memorial of the Citizens of Baltimore to the mayor and city council, in relation to the Baltimore & Ohio Rail Road*, presented in council, Feb., 1836.

[11] The impracticability of a canal was not so great, however, while the spread of cotton culture westward was more important.

ally favored the railway. Direct evidence is at hand. The committee of the Senate which reported on the Baltimore & Ohio memorial in 1829, said, "that public confidence in this description of road is rapidly increasing. In England such roads have become numerous, and several successful experiments" have been made in the United States.[12] In the House the president of the Chesapeake & Ohio Canal Company, Mr. Mercer, was chairman of the committee on roads and canals, so we cannot look to this committee for representative reports. This same president and chairman, however, in a private letter under date of May 14, 1830, writes: "In the existing temper of the committee on roads and canals (Senate), I clearly perceive that any memorial which we might present would be unfavorably regarded, and I had too little reason to hope a more favorable result from the House while the present delusion (!) prevails in favor of the railroad."[13]

The nature of this "delusion" is apparent in the words of a speaker in the House at the session during which the above was written. Mr. Carson, in the speech already quoted,[14] referred to railways as outstripping canals here and abroad, and exclaimed, "Yes, sir, the honorable gentleman from Virginia (Mr. Mercer) must hear the appalling, the heart-rending fact, that this mighty monument (the C. & O. canal) * * * must fall, and must give place to the superior improvement of railroads."[15]

The conflict between the Baltimore & Ohio Railroad Company and the Chesapeake & Ohio Canal Company was of great importance in educating the people and Congress, and is of value to the historian as fixing the period at which the canal clearly began to be supplanted by the railway in congressional favor.

---

[12] *Sen. Docs., 1828-29*, I, No. 73.

[13] See *The Early Development of the Chesapeake & Ohio Canal Project*, in *J. H. U. Studies*, XVII, 104. For early illustrations of such delusion see below, p. 269.

[14] See above, p. 205.

[15] *Cong. Debates, 1829-30*, p. 669 ff.

Movement from Canals to Railways

This change in opinion was not confined to the one case, however. In 1830 the same tendency is shown in the movement to authorize the transfer to railways of land grants previously made to canals. Ohio petitioned for the right to devote her two per cent. fund to the construction of railways instead of canals, and the Senate committee on roads and canals reported favorably, on the ground that recent improvements had caused the more intelligent to deem the railway superior to canals in many, if not all, respects.[16] At the next session of Congress the House resolved to inquire into the expediency of authorizing Indiana to substitute a railway in place of a canal for connecting the Wabash with Lake Erie,[17] and during the session which followed the same action was taken with regard to the Illinois & Michigan canal in Illinois.[18]

In 1833 an act was passed which provided that land granted the state of Illinois for the above canal might be "used and disposed of by said state for the purpose of making a railroad instead of a canal,"[19] and in the same year similar acts were passed for Ohio and Indiana.

Exceptions to the Movement

But, although the predominance of railways was assured by 1830 or shortly thereafter, they did not actually and every-

---

Note.—Bibliography for Baltimore & Ohio-Chesapeake & Ohio controversy:
Sen. Docs., 1828–29, II, No. 99.
Sen. Docs., 1829–30, II, No. 144.
Rep. of Com., 1829–30, II, No. 211.
Exec. Docs., 1831–32, No. 18.
Exec. Docs., 1832–33, II, No. 93.
Exec. Docs., 1832–33, III, No. 113.
Exec. Docs., 1832–33, III, No. 117.
Rep. of Com., 1833–34, Appendix C, p. 117.
Exec. Docs., 1833–34, III, No. 95.
Hulbert, *Historical Highways*, XIII, 116.
The monographs in *J. H. U. Studies* above referred to.

[16] *Amer. State Papers*, Feb. 8, 1830. Pub. Lands, VI, 138.
[17] *H. J., 1830–31*, Jan. 5, 1831, p. 147.
[18] *H. J., 1831–32*, p. 71.
[19] *Laws of the United States*, VIII, 833, Sec. 1.

where predominate till a much later time. In 1835–36, a proposition to change the Cumberland Road to a railway failed in Congress.[20] As late as 1846 a committee in its report said, "It is not intended to maintain that a railroad is, in the abstract, a better medium of conveyance * * * than a navigable stream,"[21] and in the same year it was thought necessary by another committee to explain that the nature of the country made canals impracticable.[22]

In the state of Wisconsin the railway did not gain ascendency until about 1847,[23] certain sections supporting canals and river improvements.[24] This is true for other sections, especially in the West and South; but is not of great importance to a congressional history because of the distinction between national and local improvements; while railways did not predominate in public favor in all sections at so early a date, they did in Congress, where improvements of "national importance" alone could properly be considered.

The Railway Predominant

Thus, while the facts already presented justify the conclusion that by 1830 the railway was recognized as a permanent factor in transportation, and that Congress showed a strong tendency to favor it over the canal, it cannot fairly be said that it predominated actually and everywhere till later,—till the early forties.

The crisis of 1837 contributed largely to this end.[25] Prior to that date there was a great deal of canal building on specula-

[20] See *Cong. Debates, 1835–36*, p. 4540.

[21] *Rep. of Com., 1845–46*, II, No. 301.

[22] *Sen. Docs., 1845–46*, No. 152, p. 8.

[23] Meyer, B. H., *Hist. of Early R. R. Legislation in Wis.*, in *Wis. Hist. Coll.*, XIV, 219.

[24] There were at least three chief grounds of opposition:

(1) It was objected that the state could not yet support railways.

(2) Plank and macadamized roads were better for farmers.

(3) Railroads were monopolistic.

This illustrates the fact that the struggle went on in the border states on much the same lines that it took place in Congress nearly two decades earlier.

[25] Hadley, *Railroad Transportation*, pp. 31–33.

tion, and these "enterprises" fell in the panic. Stigma attached to them as a result. Moreover, they had been carried on generally by the states, and suffered from the general downfall of state activity and collapse of state credit. Railway construction, on the other hand, did not suffer from the panic to any great extent, and it was more frequently carried on by private companies.

Summary of Arguments Advanced For and Against Railways

In the first session of the twenty-second Congress, the subject of the relative merits of canals and railways was thoroughly threshed out, and nearly all the arguments pro and con may be found in the documents[26] of this time, 1831–32. Much that was said concerning the early ideas as to construction and utility of railways also applies here.[27]

In the learned discussions of this matter, the proper way to begin—in case the railway was to be supported—was to state that the effect of power applied on a railway is constant at all speeds, whereas in the case of a canal resistance increases as the square of the velocity. In other words, it was argued that while on a canal friction increased at a greater rate than speed, on a railway it increased only at about the same rate, and hence canals could only afford to compete for slow traffic. Its greater speed gave the railway important advantages over canals in carrying the mails, troops, passengers, and all perishable commodities. From the beginning, the desire of the public for speedy mail service put a strong weapon into the arsenal of the railway.

Coupled with the argument of superior speed was that based on a more extended range of service. Canals, it was observed, were limited by mountains and lack of water, while railways could reach the farmer everywhere and carry his produce to the cities.

---

[26] *Exec. Docs., 1831–32*, Docs. No. 18 and 101.

[27] See above, p. 195 ff.

When it was added that they furnished continuous service during the whole year, while canals were frozen during the winter, a strong argument was at hand for the statement that the railway would be far more efficient than the canal in equalizing supply and demand, preventing gluts and monopolies. This argument was advanced.[28]

Again, it was generally admitted, though sometimes disputed by canal companies, that the cost of construction of railways was less. They could be built more quickly, too, and it was pointed out that this was not only desirable in itself, but meant a saving in interest on the capital invested.

Finally when but a few miles of railway had been constructed, it was argued that it would be bad policy to trans-ship goods, and that all-rail routes were preferable. The camel had his nose within the tent.

In behalf of the canal it was urged that practice showed that the railway was an adjunct to the canal and that they were used together. Such an argument shows that the canal was on the defensive and was willing to make concessions; the Chesapeake & Ohio company came to practically admit that the middle section of its route should be a railway.[29] Canal supporters asserted that no canal had ever been changed to a railroad. The boasted superiority in speed, said they, was after all very limited. Twenty to thirty miles an hour would be fatal. And again, experiments with steam canal boats were being made which showed that great speed could be attained in that way. It was feasible, too, to keep canals freed from ice in winter.

The strongest argument, however, was the cheapness of transporting heavy, bulky commodities, especially where speed did not play an important part; the cost, it was asserted, was about one-third that on railways. The argument, however, as it left a large field open to the railway, could not be effectual in checking the growth of a favorable sentiment in Congress.

In checking the growing popularity of railways in Congress, the general appeal to conservatism was most effective. "Go

[28] *Exec. Doc., 1831-32*, No. 101, Appendix to the *Report on Steam Carriages.*
[29] Above, p. 219.

slow," said the canal faction to Congress, "it will take years to decide which system is the best adapted to transportation in this country;" and they pointed to the sparse population and uneven surface of the land. Such an argument was two-edged, however, and could at most but put railways and canals on a common level of disadvantage. And it did not reckon with the American system of railway construction (and financiering).

Some of the economic arguments were quaint and fallacious; others showed valid foresight. It was urged that canals were superior "as a public work" and that railways were undemocratic. At the same time, it was clearly seen that railways were liable to cutthroat competition, and that a "parallel line" might involve the original and itself in common ruin. The fear was expressed that railways might be built too fast, and that, being abandoned, they would decay. Canals would be more permanent.

The foregoing comprises the chief arguments as to the relative merits of railways and canals, as they were advanced in Congress up to 1830. It remains to be added that the question differed considerably according to the tractive power proposed: if animal power was to be used, the argument from speed was not so strong, but there could be no objection on the score of danger and the like.

It should be remembered that a large part of the opposition to railways was entirely sincere. Many men really believed them impracticable, even in 1830, though, as has been observed, the bias of interested canal owners played a great part.

Early Railways Often not Regarded as Merely Auxiliary to Canals

It has been stated[30] that the earlier railways were regarded as merely supplemental to rivers and canals, which they followed for the purpose of rendering assistance at certain places and seasons, and that before 1850 men generally considered them as

[30] Sanborn, *Congressional Grants of Land in Aid of R. Rs.*, pp. 17, 23.

auxiliary to water transportation. But a study of the earlier railways makes modification of this statement necessary.

(1) In the first place, we have seen that in the earliest mention of railways by Latrobe, they were thought of as being used in regions and for purposes for which canals and rivers could not be available.

(2) Again, railways were thought of as taking one kind of traffic; canals, another.

(3) As will be shown later,[31] the earliest assistance to railways was rendered to "canals or railways," and the earlier companies were frequently formed to construct a canal or railway. Thus, the railway was often regarded not as an auxiliary, but as an alternative to canals. There were some bitter struggles between the two, and the railways supplanted canals.[32]

(4) Out of thirty-two projected railways mentioned in a work on the internal navigation of the United States[33] (1830), the majority do not follow water courses, or from their location are distinct and independent from canal or river traffic.

(5) Railways were spoken of as presenting an effective competition to rivers as a means of transportation.[34]

---

[31] Below, pp. 277, 284.

[32] The New York Central was built in competition with the Erie canal; the Baltimore & Ohio competed with the Chesapeake & Ohio canal; several of the early roads were built to compete with river transportation.

[33] Armroyd, George, *Internal Navigation of the United States* (Phila., 1830), p. 574.

[34] *Cong. Debates, 1835-36*, p. 4542.

CHAPTER V

RAILWAYS SUPERSEDE ROADS AS A NATIONAL IMPROVEMENT

The introduction of railways met opposition not only from canals, but also, though to a much less extent, from roads or turnpikes; not only did the railroad generally supersede the canal in the country at large and in congressional favor, but it also superseded common roads as a national improvement.

Roads or Railroads

In 1825, it will be remembered, the House inquired into the expediency of an experiment with macadamized roads and railways.[1] At this time an argument that, all things considered, a system of macadamized highways would best serve the nation would have received serious attention, and when the stage of railway development, together with the state of the country, is reflected upon, it cannot be wondered at. Short-lived and expensive cast-iron rails alone were in use, while it was generally believed that a granite substructure would be necessary. Such being the case, it is not strange that railways were deemed unsuitable to a new and comparatively poor country like the United States; it is little wonder that even so far-sighted a man as Oliver Evans believed that ways like turnpikes were to be preferred "in the first instance" to railways.[2]

Furthermore, looking backward, we are more likely to underestimate than to overestimate the power of that vague inertia, conservatism. In 1806, Congress had committed the nation

[1] See above, p. 189.
[2] Above, p. 196.

to a policy of road-building, and the great national road was the just pride of the country. An extensive system of post-roads had been established. In short, it was natural that men should be loath to turn from their labor in one direction to move in new paths.

Of a quite similar nature to this factor, was the widespread feeling that roads were best suited to a democracy, and that railroads were "moneyed powers." This idea has been referred to in connection with canals; it will appear below.

Steam on Common Roads

Again, as long as steam locomotion was not contemplated as the chief means of transportation, the field for railways was much restricted, and only with the perfection of the steam engine did the idea that macadamized roads and canals might answer for the nation's internal commerce vanish. The discussion of steam transportation on common roads which occupied a place in congressional proceedings at the first session of the twenty-second Congress may be regarded as a late stage in that evolution by which the railway supplanted the common road and the canal.

This discussion was encouraged by the canal supporters, as well as those interested in turnpikes and the disinterested conservatives, and it was Mr. Mercer, president of the defeated Chesapeake & Ohio canal, who, in 1832, reported a resolution that the report of a committee of the House of Commons of Great Britain on the use of steam carriages on common roads be printed.[3] The English committee had been appointed in 1831 to inquire what tolls ought to be imposed on "coaches and other vehicles, propelled by steam or gas,[4] upon turnpike roads;" what was the present state and future prospects of land carriage by such vehicles; and what utility the public might

[3] *Cong. Debates, 1831–32,* VIII, Pt. II, 1765. So much of the report on the Chesapeake & Ohio canal as related to the actual and relative cost of canals and railways was added. *Ibid.,* p. 1841.

[4] No such vehicle having been made practical, the report did not consider this kind.

derive therefrom. On the first point, the committee reported in favor of extending protection to steam carriages at once, to prevent the exaction of excessive tolls by turnpike companies. As to the second question, the matter had passed a doubtful stage, said they, and many successful experiments indicated success. With regard to public utility, they concluded: "These inquiries have led the committee to believe that the substitution of inanimate for animal power, in draught on common roads, is one of the most important improvements in the means of internal communication ever introduced."[5]

The main objections brought out by the inquiry were:

(1) Insecurity on account of boiler explosions, and breakage of machinery;

(2) Annoyance to travellers with horses from peculiar appearance, noise, smoke and steam;[6]

(3) Wear on roads.

These might be largely obviated, however, by using coke, turning the exhaust through the chimney, and applying broad tires.

The great advantage lay in the higher speed and, it was added, "There is no danger of being run away with, and that of being overturned is greatly diminished."

The committee assumed that for bulky objects, where speed was of little importance, horse traction would be cheapest.[7]

In the debate on printing, in addition to this matter, a report on the relative and actual cost of railways and canals,[8]

---

[5] *Exec. Docs., 1831-32*, No. 101.

[6] Interesting in connection with the recent spread of the use of automobiles.

[7] The following summary of evidence was submitted:

1. Carriages can be propelled by steam on common roads at 10 mi. per hour.
2. This has been done with a carriage containing upward of fourteen people.
3. Weight, including fuel, water and attendants may be under 3 tons.
4. Steam carriages can ascend and descend hills of considerable inclination with facility and safety.
5. They are safe for passengers.
6. They are not public nuisances.
7. They will be speedier and cheaper than those drawn by horses.
8. They make less wear upon common roads.
9. Rates of toll imposed have been excessive.

[8] *Cong. Debates*, Feb. 20, 1832, VIII, Pt. II, 1841.

Mr. Cambreling, of Maryland, stated that the idea of locomotive engines travelling on macadamized roads at the rate of from 15 to 20 miles an hour was absurd, adding that railways would also be preferred to canals. At this point Mr. Mercer,—with what may have been delicate irony,—professed himself highly willing to print all the information in favor of railways which the gentleman from Maryland, Mr. Cambreling, might be able to furnish. He insisted on the practicability of introducing steam cars on common roads, by which one-half the present cost of transportation would be saved.

But, just as Oliver Evans' feat in 1804[9] resulted in no introduction of steam carriages, so this agitation in Congress ended in nothing practical. The opinion of Mr. Cambreling was probably that of the majority of congressmen, and nothing of importance with regard to steam road carriages is found in congressional documents after 1832. Aside from its intrinsic interest and its place in the evolution of the steam locomotive, the movement to develop steam transportation on roads is only of significance as a stage in the predominance of the railway over the macadamized highway as a national improvement.*

---

[9] Above, p. 185.

* Note on steam carriages: Roughly speaking, between 1820 and 1830, there was much activity directed toward applying steam to transportation on roads, especially in England, where much progress was made. It seemed for a time that this was to be a permanent improvement. Hostile legislation, however, together with railway competition, checked the movement, though not until several practical steam carriages had been constructed and used for commercial purposes.

In this country so much was not accomplished, partly on account of the poor roads, no doubt. Oliver Evans' experiment caused some stir, but no immediate result. *Niles' Register* for Sept. 11, 1819, gives the following notice: "A London paper of July 17 says—'The Americans have applied the power of steam to supersede that of horses in propelling stage coaches. In the state of Kentucky a stage-coach is now established with a steam engine which travels at the rate of 12 miles an hour.'" The index refers to this item as "Steam carriages, etc., wild report respecting."

It will be remembered that the year 1819 was the one in which Dearborn petitioned Congress concerning his project, and the rumor from England might have had this source. This is merely a conjecture.

The same paper in the number for Sept. 11, 1824, contains the following notice, under the catch title, "Steam coach:" Mr. S. T. Conn, of Virginia, announces that he "has made an improvement in the application of steam, which, from its small dimensions and the concentration of power in the generator, gives certain assurance of enabling him to propel carriages on any turnpike or other road which has no uncommon obstruction, * * * and he has ascertained a

The Buffalo–New Orleans Road Bill

A sign of the times was the attack upon the proposal in Congress to construct a road from Buffalo to New Orleans. This kind of improvement was referred to as a "paltry earthen road," and as being behind the spirit of the age, which demanded railways.[10]

The Movement to Change the Cumberland Road to a Railway

But more significant was a proposition made in 1836 to change the western extension of the great National Pike or Cumberland Road to a railway. After 1830 the growth of railways was very rapid, and we have seen that some time before the close of the succeeding decade they had found favor over canals. As they extended they came into more close and general competition with turnpikes and stage companies, which inevitably succumbed where such was the case, making clear the relatively limited sphere of the older methods of transportation. This appeared first in the eastern states, and in Pennsylvania the limitations of the Cumberland Road were early seen.[11] By 1836 it was more generally recognized, and the springing up of many railway corporations with projected lines in proximity to the western portion of the road naturally gave rise to the question as to the future utility of a turnpike as well as to its relative cost.

The proposition to adopt a railway for that part of the Cumberland Road lying west of Columbus, Ohio, originated in connection with a senate bill[12] for the continuation of the road

---

method of guiding the carriage which obviates the necessity of rail-ways." He proposed to establish a coach between Washington and Alexandria or Baltimore, desiring to prove the merit of his invention at the capitol.

For further discussion in addition to the *Report on Steam Navigation*, see Thurston, Robt. H., *A History of the Growth of the Steam Engine*, pp. 157–171; and Armroyd, Geo., *International Navigation of the United States* (published anonymously, Phila., 1830), p. 590.

[10] *Cong. Debates, 1829–30*, Mar. 25, 1830, p. 669.

[11] Hulbert, *Historic Highways*, X, 84.

[12] *Bill No. 64, Sen. Jour., 1835–36*, p. 79; *Cong. Debates, 1835–36*, p. 723.

in the states of Ohio, Indiana and Illinois and it occupied considerable space in the proceedings of the first session of the twenty-fourth Congress. The movement for a railway was connected with an effort to greatly cut down the appropriations,[13] and this fact, in addition to scanty material, makes it impossible to draw sharp conclusions as to the extent to which Congress favored the change. Nevertheless, certain general tendencies will become clear.

At the very beginning of the discussion, it was urged that the cost of constructing a macadamized road through this level country where stone was scarce would be greater than that of a railway;[14] and this argument was not met save for so much of the road as lay in Indiana, where a great part of the grading had been finished, and, being adapted to macadamizing, could not be altered without much expense. Mr. Clay remarked that even if a macadamized road was to be made, it would be cheaper to build a railway, too, for the purpose of transporting stone for the macadamized road (!).

The following amendment, proposed by Mr. Clay, was carried by a vote of 30 to 14: "provided the expenditure of that part of the appropriation to be made in the state of Illinois shall be limited to the graduation and bridging of said road, and shall not be construed as pledging Congress for future appropriations for McAdamizing said road."[15] With this limitation and reduced appropriations, the bill passed the Senate.

Obviously the significance of the amendment in this connection lies in the fact that it left the substitution of a railway possible.

It now becomes necessary to drop the thread of this bill for the moment, in order to notice similar developments in the House. This body had resolved on February 11, 1836, that

---

[13] The appropriations were cut down considerably. See *S. J., 1835–36*, pp. 202, 213. A motion by Mr. Clay to cut down the appropriation for Indiana was lost, however.

[14] *Cong. Debates, 1835–36*, p. 724.

[15] *Ibid.*, Ohio, Indiana, Illinois and Missouri were solid against the amendment. New Hampshire, New York, Pennsylvania, North Carolina, Georgia, and Tennessee were divided. The northwestern states would naturally fear that this meddling with the matter might leave them no road at all.

the secretary of war should lay before it an itemized account of the cost of constructing the National Road; "also the relative cost of substituting a rail-way for a McAdamized road, * * * and the relative expense of the future repairs of such railway or road;" and an account of the system of contracting for the work.[16]

In accordance with this resolution, a document was submitted on April 20, which contains, besides an account of the method of contracting and tables of relative cost, some important remarks.[17] Reference was at once made to the existence of railways in the region, though the point emphasized was not the competition to be feared, but rather the advantages of an all-rail route. Railways already projected would connect Baltimore with Columbus, a railway connecting Cleveland with Columbus had been recently chartered, while at Springfield, O., the road would be intersected by the Lake Erie and Mad River railway, and a railway chartered from Springfield to Cincinnati, where it would meet the projected route to Charleston, S. C. Thus, if a railway were constructed it would not only afford a uniform through route to the West, but also form part of an extended system north and south, the implication being that a common road would fill no such function.

After describing the construction proposed, the report concludes, "Assuming as data the recent performance on the Baltimore & Ohio rail-road of one of the locomotive engines belonging to that company, by which higher grades were overcome than any to be surmounted * * * nearly the whole difference of cost in the items of graduation, masonry and bridging in favor of the McAdamized road, would disappear."

The cost per mile was estimated at nearly $13,000, which was less than the estimate for the macadamized road, but as some progress had been made on the latter the change to a railway would have meant a slightly greater expense.[18] The annual expense for repairs on the railway, however, was estimated at less than 56 per cent. of that on the road.

[16] *H. J., 1835-36*, p. 328.

[17] *Exec. Docs., 1835-36*, VI, No. 230, p. 6 ff.

[18] About 20 per cent.

Meanwhile, the Senate bill for the continuation of the Cumberland Road had come to the House, where it was referred to the committee on roads and canals, and that committee reported an amendment to change the road from a macadamized road to a railroad.[19]

The chief reason given for the amendment was based on the relative cost of roads and railways, it being stated that the level nature of the land and the great cost of hauling stone for the road made a railway cheaper, and the estimates given above were cited. Companies engaged in constructing aqueducts had actually found it cheaper to build railways merely for hauling their materials. Repairs would be less by one-half.[20]

The committee did not base its judgment on cost alone, however. It stated its belief in the "vast superiority of railways over the best turnpikes," adding that: "On this subject the public mind is believed to be settled."

The report refers to the advantages of a through rail route to the West, dwells at length on the military utility, and mentions general social benefits.

The principal speech on the proposed amendment was made by Mr. Jackson of Massachusetts,[21] and the main argument was that the progress of steam transportation had been so great since 1820 that common roads had become only of local importance. Science and ingenuity, said he, had opened far better means of communication which would take through traffic away from mere roads, hence the latter would be futile in furthering the original purpose of Congress for creating an effective bond between the East and the West. Point was given to his argument by the fact that Mr. Lane of Indiana had stated that, even though railways were better, if the people of Ohio, Indiana and Illinois preferred a road, they ought to have it regardless of the wishes of other sections. In a word, the road could only be regarded as a sectional or local improvement, and so could not fairly claim a national appropriation.

Mr. Jackson stated that official investigation proved that a

[19] *Cong. Debates, 1835–36,* p. 4495.
[20] *Rep. of Com., 1835–36,* III, No. 671.
[21] *Cong. Debates, 1835–36,* p. 4495.

double track railway could be constructed for $12,238 per mile, which was considerably less than the cost of a macadamized road, and that it could be kept in repair at half the cost.

The cry that the railway was monopolistic and undemocratic,[22] that a real "people's road" was wanted, he met by asking who would carry these sentiments so far as to pay $3.50 for an uncomfortable jolting of six or eight hours over the road from Washington to Baltimore in preference to an easy ride of less than three hours by rail at a cost of only $2.50.

In spite of these arguments, however, the amendment was rejected by the House.

In the same session this subject came up again. The committee on roads and canals having reported a bill for the extension of the National Road from Vandalia, Ill., to the Mississippi river, in which it was provided that the road should be so graded as to permit the laying of rails, that provision was rejected by a vote of 92 to 38.[23] Similar action resulted as to the same provision for the extension to Jefferson City, Mo.,[24] and the bill was laid aside.

This did not end the matter, however, for the discussion was shortly resumed, Mr. Webster of Ohio making the important speech.[25] The substance of his argument was the same as that contained in the speech made by Mr. Jackson. He said that the enterprise of the growing West would not tolerate the slow and tedious stage coach, and that the railway would not only be a speedier, but a cheaper means of travel. Rivers would remain the highways of commerce,—canals he considered as tributaries to rivers,— but for travel railways were "incomparably superior to the best macadamized roads."

He prophesied that should a road be built, it would soon be paralleled by a railway and be relegated to use for local transportation from village to village. Notwithstanding his statement concerning rivers as the chief highways of commerce, he said that the railway would present an effective competition to

[22] See below, p. 247 ff.
[23] *Cong. Debates, 1835-36*, p. 4501.
[24] *Ibid.*
[25] *Ibid.*, p. 4540.

steamboat companies on the Ohio river, furnishing a speedier and more continuous service.

Mr. Webster referred to the military advantage of being able to concentrate troops on the border in a short time, and said that the government policy of congregating the Indians west of the Mississippi made this feature especially important.

The main line of argument seems to us, with our later knowledge, unanswerable, but the conservative element triumphed, and the original bill for a macadamized road was passed.[26]

Some of the arguments of those who opposed the change to a railway may be gathered from the speeches of those who favored it, though no more direct account is to be found in the records of debates. For instance, it appears that objection was made on the ground that the railway could not be used by emigrants. Streams of emigrants were pouring westward, and supporters of the original road bill said that such a highway as they proposed would best convey these travellers. Such an objection was easily answered by pointing out that the cost of migrating by rail would actually be less, in that there would be a great saving in time, and so in the consumption of provisions, and like costs.

Again, resistance came from certain towns along the route of the road, the tavern-keepers especially fearing that the stream of travel, if borne upon so rapid a conveyance as the railway, would sweep past their doors without halt.[27]

These, together with the anti-monopoly, "people's road" cry, are the only objections to be found, however; and as it seems they could hardly have determined the deliberate action of Congress,[28] we must attribute the rejection of the proposed

[26] Vote stood 104 to 82, the important opposition coming from the South.

[27] This was a just fear. The route of the old pike is to-day lined with dead towns. In those days of stage travel the inns along the roads were numerous and those interested in them formed a large and relatively influential class. The introduction of railways caused complaint of numerous persons engaged in staging and stage-taverns, and sympathy for them was very wide-spread. (See Stimson, A. L., *History of the Express Companies and the Origin of American Railroads*, N. Y., 1859, p. 29.)

[28] Jacksonian democracy was predominant, however, and the "people's road" argument is on a par with the other political cries of the time. It probably had considerable weight.

adaptation of the road to railway construction as being largely due to a general spirit of conservatism.[29] It is probable, too, that the states most concerned feared that any tampering with the appropriations might cause delay or the entire abandoning of the road, and, as has been observed, the fact that a movement to adopt a railway was associated with one to cut down the appropriations would lead to opposition to the whole change. Even those who favored a railway would take half a loaf rather than none.

Thus, while we cannot measure the sentiment of Congress quantitatively, we may conclude that it was realized that the railway was more efficient than a turnpike, and that roads could not be considered "national improvements." In 1838 the last appropriation for the Cumberland Road was made, and it was never completed.

Railways Supersede Turnpikes in Mail Service

On July 7, of this same year, an act of Congress constituted every railway in the United States a post route. This fact is of much importance in that it was thought for some time that roads would remain best suited for mail service. Indeed, the history of the mail service has been divided into two periods, based on the importance of railways as a means of conveyance:[30] the dividing year is placed at 1834, when railways were beginning to be used in a small way for mail.

In a list of mail contracts made in 1831 for the three years following, no mention was made of railways.[31] Not until 1834 do the annual reports of the post office speak of railways as mail carriers,[32] but in that year the following reference occurs: "The multiplication of railroads in different parts of

[29] Final action was taken at the close of a crowded session, and this must be reckoned a factor in determining the fate of the amendment.

[30] See a *History of the Railway Mail Service*, Sen. Exec. Docs., 48th Cong., 2d sess., No. 40, p. 11. This is a documentary history compiled by the postmaster-general in response to a Senate request. This is a valuable source.

[31] *Ibid.*, p. 25. Submitted in the House, April, 1832.

[32] It should be observed that contractors for the delivery of the mail used the railway from the beginning.

the country promises, within a few years, to give great rapidity to the movement of travellers, and it is a subject worthy of inquiry, whether measures may not now be taken to secure the transportation of the mail upon them."[33]

In 1834 there were less than 700 miles of railway in the United States, and the average rate of speed[34] was not much greater than that attained by horses on good roads, contracts for mail delivery by the latter means being made which required from 8 to 15 miles an hour.[35] Contracts were sometimes awarded stages as making better time.[36] As late as April 30, 1835, a letter addressed to a mail contractor refers to irregularities on the Camden & Amboy, and concludes: "From the experience we have had, the adaptation of the railroad to purposes of mail transportation is becoming every day more and more questionable." An earlier communication had implied a threat to go back to stage service.[37]

This attitude, however, was of short duration. In 1835 and 1836, contracts with railways became frequent.[38] In 1835 Amos Kendall, the postmaster-general, wrote that to be forced to abandon railway mail service and resort to stages would cause this important branch of government activity to "sink into contempt:"[39] and on July 7, 1838, all railways in the country were constituted United States post routes.

Citizens of St. Augustine Ask for a Railway

In concluding the discussion of the change from roads to railways, a petition[40] of the citizens of St. Augustine, Fla., may be instanced as a further illustration. Congress had voted an appropriation for a road to connect Picolata with St. Au-

[33] *Ibid.*, p. 26.
[34] See above, p. 201.
[35] *Sen. Exec. Docs., 48th Cong.*, 2d sess., No. 40, pp. 15–18.
[36] *Ibid.*
[37] *Ibid.*, p. 26.
[38] See *Ibid.*, p. 28. This was, of course, partly due to the rapid extension of railways.
[39] *Ibid.*, p. 132.
[40] *H. J., 1838–39*, p. 286.

gustine. This, however, did not satisfy certain citizens of eastern Florida, and they accordingly memorialized Congress, asking that the appropriation be applied to the construction of a railway over the same route.

As in the case of the Cumberland Road, this agitation led to no change. A counter memorial was presented. Congress did not act upon the matter.

General Summary and Conclusion

As the case of the Baltimore & Ohio railroad *versus* the Chesapeake & Ohio canal was typical of the general status, so here, the proposition to make a railroad over the route of the National Road is characteristic of the time. Congress began by inquiring into the relative cost and utility of roads and railroads in 1825. By 1831 steam had become the important factor in transportation and its application to common roads was agitated. This shows a tendency to adhere to turnpikes, though perhaps a majority of men realized the superiority of railways. In 1836 there was a strong movement in Congress to substitute a railway for the National Road, and it did not fail because a railway was believed to be inferior to the macadamized road. Indeed, we are warranted in concluding that by this time the railway had practically superseded the road as a national improvement. It was the turning point. In 1838 the last appropriation for this road was made. In 1839 there was an effort to alter an appropriation for a road in Florida.

As one turns over the indices of the journals of Congress, he is struck by the sharp decline in the frequency and importance of measures concerning roads, both post and military, which occurs about the year 1840; and, though it practically came nearly five years earlier, we may name that date as marking the time when railways clearly superseded roads as a national improvement.

CHAPTER VI

THE RAILWAY AND SOCIETY

The aim of the present chapter is to trace from the utterances of congressmen and from congressional documents the development of ideas concerning the effect of railways upon society and government; and to give a general resumé of the relations which were assumed to exist between railways and the economics and politics of the country. Some of the facts to be presented have appeared in the preceding chapters, but they are now made the basis for conclusions of a different order.

We know that with the introduction of the railway there came a new factor into the life of the nation, and of the world, which radically affected all phases of that life. The railway is both quantitatively and qualitatively different from other and earlier means of conveyance and communication. But was this apparent to the men, and especially the congressmen, of the early nineteenth century? On the whole, it may be said that it was. Almost from the beginning it was quite generally recognized that the laws governing the operation of the railway were different in important repects from those applying to canals and turnpikes. This statement, however, needs qualification,[1] and only after 1840 when the railway had superseded canals and roads in Congress, is its truth most clearly apparent.

Railways Different From Canals and Turnpikes in Social and Economic Effects

The differences between canals and railways were brought out fully in the discussions of 1831 and 1832. At that time the

[1] See below, pp. 248, 260 ff.

effects which these differences must have on social and economic[2] conditions were discussed in Congress.

1. *Facility of construction and wasteful competition.*

In the first place, the relative facility with which railways could be constructed, and the fact that they were not so limited by topographical conditions made important differences. It was thought by some men that any farm or town that desired a railway would readily be accommodated, and that this would lead to a wasteful multiplication of routes that would cause loss to all. Thus, Josiah White, in a letter which was submitted by the Chesapeake & Ohio Canal Company in support of a memorial,[3] said, "I think it rather fortunate for society, that railroads are not of equal value to the canals, for a railroad can be taken anywhere, and consequently, no improvement would be safe on this line, for the moment the improvement succeeded, it would be rivaled, so as to destroy both." White even expressed a fear that tenure or value of property would be rendered insecure as a result.

This less limited scope and difference in competitive nature, of course, made a distinction between railways and canals, rather than turnpikes. It should be observed that this idea of competition was but a speculation or prophecy, and that it was not based upon any existing condition of "cut-throat competition" among railroads. At the time[4] White wrote there were only about 200 miles of railway in this country, and well down to the close of the first half of the century railway capital was relatively scarce and unproductive,[5] so that such a state could not well exist.

Nor was it based on a supposed analogy between railways and roads, for such a degree of competition does not seem to have been prevalent among turnpikes.

---

[2] It seems to the writer unfortunate that the adjective, economic, does not alone express the idea to be conveyed. It should do so. The German compound, socio-economic, might be used.

[3] *Exec. Docs., 1831–32*, No. 18, p. 166 ff.

[4] 1832.

[5] See Tanner, H. S., *A Description of the Canals and Railroads of the United States* (N. Y., 1840), p. 22 ff.

2. *Railways "monopolistic."*

But while some feared undue competition among different railways, it was commonly recognized that each railway formed a "close monopoly, and not a public highway."[6] This seems to be a contradiction of ideas. By a monopoly, however, was meant not one existing between different railroads, but one which consisted merely in the exclusive right to use the railway which the company owning it possessed. The charter of the Falmouth & Alexandria Railroad Company stated that "upon the rail-road hereby authorized the company shall have the exclusive right of transportation,"[7] other charters empowered the railway companies to prescribe time and manner in which transportation services should be performed,[8] and others still provided that only such vehicles as the company might allow should operate upon its railway.[9]

It was such conditions that caused Benjamin White, engineer, to write, in a letter appended to a congressional document, "I consider a long line of railroad passing from Baltimore over the mountains * * * as being odious in this country as a monopoly of the carrying, which it necessarily must be;"[10] and he observed that a canal was open to any man who built a boat to navigate it as he chose. It was this that Mr. Bouldin referred to when, in a debate on the re-organization of the Post Office, which occurred in the House in 1836, he said that he would vote for any check that could be put upon the monopoly of the railroads. In the same year Mr. Jackson represented the opponents of railways as crying, "A railroad is a monopoly!"[11]

---

[6] *Exec. Docs., 1831–32*, I, No. 18, p. 197.

[7] *Rep. of Com., 1837*, No. 238, Sec. 23.

[8] *Sen. Docs., 1845–46*, V, No. 295, p. 5, Sec. 6.

[9] *Rep. of Com., 1836–37*, I, No. 121, Sec. 5. The charter of the Baltimore & Ohio R. R. contained a provision to this effect. It indicates that in the transition to railways there was a tendency to think of railways as being similar to turnpikes.

[10] *Exec. Docs., 1831–32*, No. 18.

[11] *Cong. Debates, 1835–36, H. of R.*, p. 4495. The following extract from a western paper is typical: "* * * * nor do we wish to see our Legislature rush headlong into the granting of monoplies (i. e., R. R. charters), which * * * * would embarrass Wisconsin in her future Internal Improvement operations, and paralyze the efforts of her people. We wish to see the utility of chartered monopolies before they receive our sanction." Milwaukee *Advertiser*, Sept. 15, 1836. See Meyer, B. H., *Hist. of Early R. R. Legislation in Wis.*, in *Wis. Hist. Coll.*, XIV,

There is ground for an argument that effective competition was not expected to exist between railways, or between railways and other means of transportation. Early railway charters in England did not fix maximum rates for the conveyance of passengers, and this has been taken to indicate a belief on the part of Parliament that competition would keep rates down.[12] Now, quite commonly the early charters in the United States fix such maximum rates, and the act of Congress authorizing a branch of the Baltimore & Ohio to Washington did so. This, at a time when such was not the practice in England, would seem to indicate an early belief that competition among railways would not be effective.

In any case, it is clear that, while many conceived that there would be competition as between different railways, it was accepted that there would be monopoly on any one railway, and this fact made a profound difference between the railway and canals or roads. To us it seems very commonplace, but to those who were familiar with no other means of transportation than canals and roads, upon either of which any individual might, with few restrictions, place his own vehicle and use his own motive power, the change was highly significant.

That in practice the railway could not be a common carrier in the sense that waterways and highways were common carriers was realized almost from the beginning, and this involved a different attitude. Toward railways the people and their representatives would be more hostile, or more suspicious, to say the least; they would be more apt to control. A tendency toward regulation soon arose, as will appear in a later section.

Railway Monopoly in New Jersey*

At the first session of the thirtieth Congress there was presented the memorial of a large number of merchants of New

[12] See Acworth, *The Elements of Railway Economics*, pp. 108–110, for a convenient reference on this point.

* The Camden and Amboy furnishes a classical example of monopoly in the field of railway transportation. In 1830 the Camden and Amboy Transportation

York City asking relief from the evil effects of a railway monopoly.[13] The Camden and Amboy Railroad Company, together with the Delaware and Raritan Canal Company, had, it seems, been granted exclusive transportation rights in New Jersey by the legislature of that state, and as the road occupied the direct route between New York and Philadelphia it was in a position to work much harm to the commercial interests of those communities. The memorialists prayed that Congress interfere for their relief. They stated that in 1832 a grant had been made giving the above mentioned companies the "exclusive right of transporting passengers and goods * * * through the state of New Jersey," for which right the state was given a bonus of a number of shares of the company's stock and in addition was to receive 10 cents for every passenger and 8 cents for every ton of commodities conveyed by it through the state. An annual tax amounting to some $30,000 was imposed.

In 1837, so the memorial runs, the companies were authorized to charge a $4 fare for transporting a passenger across the state by day, and $5 if by night, the state to receive one-half the amount left after deducting $3 from the fare. The distance being about eighty-five miles, the average fare thus authorized was nearly 5.3 cents per mile. This rate, however, was not uniform, for the companies were restricted from demanding

---

Co. and the Delaware and Raritan Canal Co. were chartered. The outlook for the canal company was poor, but under cover of an amendment to its charter empowering it to widen its canal the company got the right to build a railway, and so forced the Camden and Amboy to consolidate. The United Company of New Jersey was thus formed. Another line was started between Philadelphia and Jersey City via Trenton, but in 1836 this rival project was nipped in the bud by securing control of the line from Philadelphia to Trenton. The system also came to control steamboat and ferry lines. By using undue influence it escaped payment of a large part of its obligations to the state, and secured renewals of its charter, till in 1871 it became a part of the Pennsylvania system.

This railway was one of the few that was profitable in the early days. Its net gain in 1840 amounted to $427,286.28. In 1855 it paid a 12 per cent. dividend.

Its abuses were attacked by the economist, H. C. Carey, in 1848, but, though he made a clear case, the agitation brought no result.

See Tanner. H. S., *Canals and Railways of the U. S.*, index.

See Larrabee, *The Railroad Question*, p. 102 ff.

See Ringwalt, *Develop. of Systems of Trans. in the U. S.*, index.

[13] *Cong. Globe*, 1847–48, XVIII, 823.

over 3 cents from any way passenger even though he travelled over the entire line. In other words, inhabitants of New Jersey had an advantage over through travellers. This discrimination, the memorialists complained, was not only unjust but also unconstitutional, as the constitution provides that "the citizens of each state shall be entitled to all the privileges and immunities of citizens in the several states."

Furthermore, Congress was asked to interfere under its power to establish post roads. The great southern mail passed over this route and it was greatly delayed by the arbitrary practice of not forwarding mails until passengers could also be taken, the company holding the mail at Philadelphia from two o'clock in the morning until nine in order to kill two birds with one stone. "This delay in the transmission of the mail * * * was a source of great inconvenience to the commercial community, and was utterly inexcusable; but they and the Government must submit to it, because the railroad company would consult alone their (own) interest and conscience." As no restriction upon rates of charge existed and the company had a monopoly the government was liable to exorbitant demands.

Hence Congress was asked to intervene "for the double purpose of effecting greater economy as well as producing greater speed in the transmission of the mail on this important route."

To the proposal of government intervention there were two chief lines of objection: Mr. Jones (Tenn.) argued that redress should be obtained through the courts; Mr. Venable (N. C.) believed that as Congress had no right to walk to the house of the citizen and say to him, every question that arises between you and your legislature we will regulate, so now it could not go down into New Jersey and "hold this company *in terrorem*, and regulate its tariffs of tolls." Clearly the states' rights doctrine spoke here.

Mr. Venable moved that the memorial be laid on the table, but his motion was lost by a vote of 60 to 67 and the matter was referred to the committee on post office and post roads.[14]

[14] No further action appears to have been taken.

3. *Railways "undemocratic."*

Closely connected with the monopoly idea, was the objection that railways were less "democratic" than canals and roads; that is, they were held by some to be out of keeping with our ideals of republican simplicity. The same Josiah White quoted above stated that railways were "vastly inferior (particularly as a public work, and in a republican country) to canals, both as to conveyance as well as to economy." There can be no doubt that this idea played a part in the attitude of people and Congress toward railways.[15]

This idea and its causes are brought out most clearly in relation to the contrast that men drew between railways and turnpikes. In the debate on the proposition to change the Cumberland Road to a railway it appears that some members of Congress were objecting that, as their constituents were plain, honest men, they wanted common roads.[16] Let gentlemen of wealth and aristocrats build railways and travel on them, said they; our constituents "are all democratic republicans," and they want a road on which they can all travel together; "no toll, no monopoly, nothing exclusive.—a real 'people's road'!"

As has already been pointed out,[17] during the era of Jacksonian Democracy such ideas as the preceding were rife. They led to the attack on the Second Bank of the United States which ended in the overthrow of that institution. Like banking, the railway business required considerable capital, a corporate form, and, more particularly, it required restrictions and limitations upon the manner in which it could be set up and used. It was a monopoly in a sense that canals and turnpikes were not. Thus those sections of the country in which the "moneyed power" was regarded as a menace to the nation would oppose railways.—as would their representatives in Congress.

Furthermore, although canal and turnpike companies possessed some of the above objectionable features, they had been in

[15] See above, p. 237 and note.
[16] See *Cong. Debates, 1835-36, (H. of R.)*, p. 4495.
[17] Above, p. 237 and footnote.

existence a long time before Jackson and the element which he represented, and men were familiar with them.

So we may conclude that almost from the beginning, important differences in nature and function were seen to exist between railway and canal or turnpike, which differences led to the expression of various hopes and fears and beliefs concerning the effect of the new device upon the economics of society.

Railways Not Regarded as Subject to Same Economic Laws as Turnpikes

In one respect railways were, to some extent, regarded as resembling turnpikes. Well down to 1830 it was commonly thought that any one might put his vehicle upon the railway company's track or "way" and travel in much the same manner as upon an ordinary road. This idea gave rise to the custom of distinguishing "tolls" from transportation charges, a rate being considered as composed of two parts: one a charge for use of the track or way, and another and additional one for transportation.[18] This resemblance is easily over-emphasized, however, and has been exaggerated.[19]

From the earliest mention of railroads in Congress, it was seen that specially constructed cars would be necessary,[20] and this resulted in the practical exclusion of all but the transportation company. Moreover, as has appeared above, early charters provided that railway companies were to have exclusive rights, and while such provisions indicate by their existence that the use of railways after the fashion of turnpikes was considered as a possibility, this possibility was but a legal theory.[21] The use

[18] See above, p. 209.

[19] Hadley, *Railroad Transportation, its Origin and its Laws*, p. 40: "Until about 1850 it was assumed that the railroad business was subject to the same laws as any other business, and in particular to the so called law of competition." On p. 12 he states that in 1850 it "began (!) to be seen and felt that a steam railroad was something more than an exaggerated turnpike or horse railroad * * * *."

[20] Above, p. 183. Latrobe considered this a limitation upon the railway's utility.

[21] At the beginning of railway transportation in England rails were adapted to ordinary road vehicles. With the use of edge rails and steam locomotion this

of edge rails made special wheels necessary, and the development of steam locomotion removed the last chance of a possible use by individuals of their own means of transportation.

Most emphatically a railway was regarded even in 1830 as a "monopoly of the carrying." What has been written in the section on monopoly[22] makes it clear that men saw that ordinary business laws did not entirely apply to the railway.

Railways and the Union

From very early times it was predicted by those who advocated railways that this means of transportation would open and extend markets and form an effectual bond of union among the states. Stevens expressed this idea, and laid emphasis on reduced cost of transportation:[23] one of the chief arguments for government aid to railways was based on their benefit in binding the sections of the country more closely together.

There were thus the economic and the political aspects of the same idea. On the one hand, the facility of railway construction, together with its relative freedom from limitation by topographical conditions, caused hope that railways would open new markets and prevent gluts and scarcities by more quickly and cheaply equalizing demand and supply; on the other hand, statesmen and demagogues alike voiced the idea that this new and rapid means of conveyance would lead to social and political unity.

Both Washington and Madison laid emphasis upon the necessity for developing internal transportation facilities,[24] but they could look forward to canals and turnpikes only. President Jackson, however, in a message to Congress,[25] suggested other means: "In the construction of railroads, and the application of steam power, we have a reasonable prospect that the extreme parts of our country will be so much approximated,

became impossible. The whole idea, though it existed in that country to a greater extent than in the United States, soon ceased as a practical force.

[22] p. 243.

[23] Above, p. 206.

[24] Above, pp. 182, 186.

[25] December 6, 1831.

and those most isolated by the obstacles of nature, rendered so accessible, as to remove an apprehension sometimes entertained, that the great extent of the Union would endanger its permanent existence." By the close of the third decade the railway was looked to for a solution of the problems arising from the portentous extension of the nation's bounds.

In 1836 it was apparent to many that the Cumberland Road could not fulfill its mission to society and that a railway should be substituted.[26] In debate upon the subject, Mr. Webster (O.) stated his belief that the social and political influence arising from the introduction of railways "would be happily felt on the character and destiny of the American people," and that the connection of the great eastern and western sections by a railway was of the highest importance.[27] He laid stress upon the promotion of social feeling among the different sections.

It is noteworthy that almost without exception each of the many memorials and committee reports[28] concerning aid to railways refers to this social benefit which they confer upon the Union. This will appear more fully in succeeding chapters on land grants.

---

[26] See above, p. 232.

[27] *Cong. Debates, 1835-36*, p. 4540.

NOTE: It is interesting to speculate upon the fact that the introduction of railways came at a time so opportune. It may be said that the supply of transportation has kept pace with the demand, though no direct causal connection is apparent. During the time that the population of our country extended in a mere fringe along the Atlantic, roads and canals sufficed. When a population of any density reached to the Mississippi, railways had come. Had this not been the case, development must have been retarded, at least, and who can say if the Mississippi or the Rockies might not have formed our western border?

[28] E. g., *Rep. of Com., 1835-36*, II, No. 525.
Rep. of Com., 1835-36, III, No. 607.
Rep. of Com., 1835-36, II, No. 301.

CHAPTER VII

THE RAILWAY AND SOCIETY—CONTINUED

Railways and the Government

In spite of any fears concerning monopoly and anti-democratic tendencies, the socio-economic advantages of railways early led to investigation, aid, and propositions for construction by the United States Government; while the realization of their harmful tendencies led to efforts at government regulation. The government's desire of having an efficient mail service and of enhancing the value of public lands should also be borne in mind.

Agitation for Government Construction

Even in the eighteenth century, works of internal improvement were regarded as peculiarly related to the government. Canals and roads were fostered by both state and nation, and in 1807 the government entered upon the contruction of the Cumberland Road. There were constitutional scruples, but ideas as to expediency probably predominated in Congress. Such being the case, it was to be expected that early railway disciples would turn to Congress, and it is not unnatural that the earliest attitude of that body looked toward government construction, if not ownership.

In 1812, Col. John Stevens wrote: "So many and so important are the advantages which these States would derive from the general adoption of the proposed railways, that they ought, in my humble opinion, to become an object of primary attention to the national government."[1] and he suggested an appropriation. Stevens proposed government ownership and operation as well, saying that there could be no doubt as to

[1] *Documents tending to Prove the Superior Advantages of Railways, etc.* (N. Y., 1852), Introduction, p. viii.

the power of Congress to lay out and make roads;[2] and in 1825, it will be recalled, a resolution to inquire into the expediency of a government experiment with "Railways, under the patent granted to John Stephens of Hoboken," passed the House.[3]

Another glimpse of the attitude of Congress may be caught in 1830 when a committee reported in favor of aiding the Baltimore & Ohio Railroad Company on the ground that it might "afford a fair and satisfactory experiment, on which it can be decided, whether a canal or *rail road* ought to be made over the mountains, *under the auspices of the national* Government."[4]

Most interesting, as throwing light on the relation of sectional interest to constitutional interpretation, is a memorial[5] presented by the citizens of Adams county, Illinois. This memorial was adopted at a public meeting, and it prayed that a *railroad might be located and constructed by the United States* from Buffalo to the Mississippi river. The same petition was again presented at the following session.[6]

The Senate during its 1834–35 session agreed to investigate concerning the expediency of constructing at the national expense a railway from Jacksonville, Fla., to the mouth of the Suwanee river.[7]

The use of the United States troops in the construction of railways was proposed from time to time.[8]

No further instances are necessary to establish the fact that there was a long-continued tendency,—or agitation, rather,—toward the actual construction of railways by the government, even when the road was to lie within the boundaries of a single state.

---

[2] *Ibid.*, p. xi. He admitted doubt concerning canals.

[3] Above, p. 189; see also p. 190. The name is incorrectly spelled in the *Journal*. The following year a resolution was submitted in the House to the effect that the Committee on Roads and Canals be instructed to inquire into the expediency of making a railroad at the expense of the Federal Government. This resolution, however, was not agreed to.—H. J., 1825-26, Jan. 5, 1826.

[4] *Rep. of Com., 1829–30*, No. 211.

[5] *S. J., 1831–32*, p. 67.

[6] *S. J., 1833–34*.

[7] *S. J., 1834–35*, p. 110.

[8] E. g., *Sen. Docs., 1843–44*, II, No. 62, p. 19 ff.

Construction not to Include Ownership or Operation

The question naturally arises at this point as to what was to become of the railway when completed, and this question was put in Congress. Mr. Webster (O.) referred to it in the speech in which he advocated the substitution of a railway for the National Road,[9] saying that there was misconception concerning the matter. His answer to the question was, that whether a macadamized road or a railway was constructed, it would be turned over to the various states within whose boundaries it lay. "If a railroad was constructed," said he, "it would be surrendered to the States, and the States would put their cars under the direction of their agents on it." Just as toll was levied upon those using a turnpike, for the purpose of keeping it in repair, so the state would only charge such rates as would keep railway and rolling stock in efficiency. "Either road," he adds, "would be equally under the control of the States and the people."

In this same year, Senator Grundy, of the committee on post office and post roads, in a report, stated that, while the great advantages of railways had caused some to think that the general government might properly construct and operate them as incident to its power to run mails and provide for the common defence, still this would mean so continual an expenditure that it would be better to leave the expense and trouble to the states and to private companies.[10]

Under the ideas which prevailed in those times as to the proper relations between federal government and the states, some such solution would undoubtedly have resulted, had the tendency to actual construction by the federal government been carried out.

Where, however, government only participated in construction indirectly,—and in practice government participated in this way alone,—as by granting land to a railway company, the question was different. It was deemed necessary only to

[9] *Cong. Debates, 1835-36 (H. of R.)*, p. 4540. See above p. 236.
[10] *Sen. Docs., 1835-36*, IV, No. 291.

safe-guard the government interests and, perhaps to secure favorable mail contracts. In the case of a proposed stock subscription, the secretary of the treasury was to see that a government proxy voted the shares.[11] There was practically no question of government ownership and operation.

But in at least one case this question was discussed as a contingency. In 1836 a bill[12] to authorize contracts for carrying mail upon railroads was up, which bill provided for a lien by the government upon the property of the railroad. Senator Buchanan feared that the government might be compelled to take these roads under its lien, and argued that in such a case it must either continue to operate the road or forfeit its charter. This, he remarked, would be placing us in a most awkward and embarrassing position.[13] The bill was not passed.

There is little doubt that after as early a date as 1822 government ownership and operation became a political impossibility. In that year a bill for repairing the Cumberland Road passed both branches of Congress, was vetoed by President Monroe, and failed upon return to Congress,—a majority of the House sustaining the veto.[14] The significance of this lies in the fact that it involved more than a mere appropriation for repairs: it involved questions of jurisdiction,—of erecting toll-gates, administering tolls, imposing fines upon trespassers, and the like. From this time actual participation by the government in the operation of canals and turnpikes became recognized as a political impossibility, and when the railroad came it found a tolerably well established belief to that effect.

Moreover, the development of a strong "states' right" movement throughout this period would have made such participation difficult, to say the least, and statesmen came to be ex-

---

[11] This general question will be treated under chapters on government aid. For references, see: *Cong. Debates, 1825–26*, II, Pt. II, p. 2251; *Laws of the U. S.*, VII, 406, 478; *Rep. of Com., 1829–30*, No. 211; *Cong. Debates, 1829–30*, VI, Pt. II, p. 1136; etc.

[12] *Sen. Docs., 1835–36*, IV. Index, Sec. 3 of the bill.

[13] *Cong. Globe, 1835–36*, III, 372. Also M. Mangum.

[14] See *H. J., 1821–22, April 29* and *May 6*; also *Annals of Cong.* and Niles' *Register*, XXII. The bill passed the House by a vote of 87 to 68, and the Senate 29 to 7. Upon being returned with Monroe's veto, it failed in the House, the vote standing 68 for and 72 against.

tremely cautious about provoking such disputes. The wave of nationalism which accompanied the War of 1812 was soon succeeded by the trough of a narrower spirit. This was manifested not only in hostility to the United States Bank,[15] to the tariff, and to the decisions of the Supreme Court,[16] but also by an increasing opposition to internal improvement by the general government. Jackson defeated three bills for internal improvements in 1830, and there is ground for thinking his policy a popular one.[17] Nullification came in 1830.

The Missouri Compromise was followed by a calm, but in the early years of the third decade a slave revolt and the activity of abolitionists fanned the alarm and hostility of the slave-holding South to a fury. The South was solid against Federal activity.[18]

For Some Time Railways Regarded as a Possible Investment

In 1826 Mr. Mercer moved a resolution for a general internal improvement fund, to be invested with joint stock companies, the income from such investments to constitute a special fund for interest on loans and for similar works of a public nature, i. e., roads, railways, and canals.[19] Both the Baltimore & Ohio and the Charleston & Hamburg railway companies made efforts to obtain stock subscriptions from Congress. In the debates on the matter, such a subscription was sometimes treated as an investment by the government.[20] The government had invested in canals, why not in railways? No subscription was made, however.

---

[15] 1819-20. Ohio persisted in an attempt to tax the bank, and even withdrew from it the protection of the law.

[16] E. g., 6 *Wheaton*, p. 264. Jefferson, *Writings*, X; *Niles' Register*, XX, 118.

[17] Schouler, *Hist. of U. S.*, III, 480–482.

[18] The attitude of the South is well summed up in a memorial made by the state legislature of South Carolina and presented by Mr. Drayton in 1828. This document remonstrated against, (1) increase of duties for encouraging domestic manufactures, (2) the appropriation of money by Congress for the colonization of free blacks, (3) "the exercise of the general power to construct roads and canals, either with or without the consent of the States". (*H. J., 1827–28*, p. 164).

[19] *Cong. Debates, 1825–26*, II, Pt. II, p. 2551.

[20] See *Cong. Debates, 1829–30*, (*Sen.*, May 22, 1830; *H. of R.*, May 26, 1830).

In cases where aid was given, as in making surveys, remitting duties on railway iron, and making mail contracts, there was some tendency to look at such aid as an investment.[21]

Pacific Railways; Movement for Government Ownership

But no account of this phase would be complete without noticing the case of the proposed Pacific railways between 1845 and 1850. In a memorial to Congress,[22] Asa Whitney proposed government ownership and operation for his projected railway to the Pacific. Senators Benton and Bowlin (Mo.) and Senator Houston (Tex.), each supported in speeches or resolutions the idea of a railway constructed, owned, and operated by the nation, appealing to social and military necessity and hostility to corporate activity.[23]

Mr. Robinson, in a speech replying to the argument of Mr. Bowlin, said, "I am utterly amazed, and have been since I have been noting the proceedings of the national conventions alluded to (St. Louis and Memphis) at the apparent amount of public favor with which such a colossal and gigantic Government scheme is received."[24]

Yet, at this time it was true that but few would have advocated government ownership of railways located in the East. At least two reasons may be given in explanation of this advocacy in the case of the Pacific roads:[25] these roads would be constructed under conditions similar in some respects to those existing in the East between 1820 and 1830, when the first railways were introduced, and there was a strong aversion to entrusting so great and important a work to a corporation. When the first important railways were projected, the fact that they were to bind what was then the far "West" to the East, while they had so many obstacles presented by the newness of the country,

---

[21] See below, pp. 263, 320.

[22] *Sen. Docs., 1844–45*, III, No. 69.

[23] *Cong. Globe, 1849–50*, Pt. I, Appendix, p. 329.
Cong. Globe, 1848–49, p. 472.
It is significant that these were western men.

[24] *Cong. Globe, 1849–50*, Pt. I, Appendix, p. 333.

[25] Below, Book III, Chapter XXIII.

made an argument for government participation. So now, when the "West" was pushed back to the Pacific, the same forces were at work. Again the fruits of the hostility toward moneyed powers and the like may be seen in this agitation for government ownership. Those men who believed the corporation a menace would prefer government activity. It will be observed that they would be the same ones who cried out against aristocracy and monopoly, demanding a "people's" road:[26] developments making the railway unquestionably superior to turnpikes, they would still prevent monopoly by making the railway a "national" one.

It is hardly necessary to add that those sections which expected to directly profit by a railway to the Pacific—or any railway—would tend to lean toward a broad interpretation of the powers of Congress, if it was thought that government construction was necessary to the existence of the road; and when, as in this case, the road was to lie almost entirely without the boundaries of the states and to extend over public lands, the tendency was the stronger.

Movement for Government Ownership not General

It must not be supposed that this movement for government ownership was a general one, nor would we convey that impression. The Pacific roads were not constructed by the government; much less were they owned or operated by it; and there were strong arguments advanced in Congress against the proposals of Benton and Bowlin. Thus Senator Robinson, in the speech already alluded to,[27] reasoned that if the government undertook the project, it would result in inefficiency and corruption. There would be lack of responsibility. It would be a "political monstrosity." Mr. Robinson states that the idea "meets with little encouragement from either Whigs or Democrats."

This conclusion might have been drawn, indeed, at an earlier time, from the words of Asa Whitney's second memorial to

[26] See above, p. 247.

[27] Above, p. 256. See *Cong. Globe, 1849–50,* Pt. I, Appendix, p. 333 ff.

Congress. He states that in his previous petition[28] he had favored leaving the railroad when constructed to the management of the general government and the wisdom of Congress; but, "objections having been raised that our institutions and form of government will not allow the carrying on or management of a work of such vast magnitude," he now proposes that he himself and his heirs undertake the operation of the road.[29]

Government Regulation

Of more practical interest than speculations, proposals, and agitation for government construction or ownership, is the history of ideas in Congress as to government regulation. The recognition of the advantages of railways led to the former movement; the realization of their harmful tendencies brought about the latter.

1. *In the District of Columbia*

We may at once take up a concrete case of regulation. In an act of Congress approved May 9, 1828, the assent of that body was given to the construction of a railway from Baltimore to Washington, and authorizing it to exact such tolls and enjoy such benefits and privileges as were allowed by its Maryland charter.[30] This seems to be a preliminary step toward the construction of a lateral branch of the Baltimore & Ohio railroad to Washington.

In 1831 we find Congress debating a bill for the authorization of a lateral branch of the Baltimore & Ohio into the District of Columbia, and on January 4 of that year, Mr. Semmes (Md). submitted three amendments to the following effect:

1. Said road shall have such location and direction as engineers appointed by the government shall decide upon.

2. Said company shall not make any higher rates of charge than are allowed by law upon the Baltimore & Ohio railroad for transportation from West to East.[31]

---

[28] *Sen. Docs., 1844-45*, III, No. 69.

[29] *Sen. Docs., 1845-46*, IV, No. 161.

[30] *Cong. Debates, 1827-28*, IV, Appendix, p. xiv. Such an act was necessary, inasmuch as Congress has sole control in the District of Columbia.

[31] See above, p. 211.

3. The road shall be commenced within one year and completed within three years.[32]

As finally passed, the act of authorization[33] embodied these ideas, but longer time and higher rates were allowed. Its principal regulations may be briefly summarized:

1. Privileges granted by the Baltimore & Ohio's Maryland charter were confirmed.

2. Provisions were made for acquiring right of way, and for street and road crossings: the company was not to enter upon any government lot[34] nor to interfere with canal ways.

3. Maximum rates of toll were fixed and prescribed, special rates on small shipments being authorized.[35]

4. Construction was to begin within a year and be completed within four years.[36]

5. The company was to build but one such branch, and it was expressly provided that similar privileges were open to Virginia or Maryland companies or "Congressional incorporations."

Thus, between 1828 and 1831, in its capacity as sovereign power within the District of Columbia, Congress was brought very directly into contact with the railway problem; and, closely following an act of incorporation by the state of Maryland, restrictions and regulations looking to the social welfare were adopted.

2. *The transportation of the mail*

But the government came into contact with the railway in another and a broader field. In fulfilling its function of distributing the nation's mail, it early had recourse to railways, and many and long were the disputes between the post office department and the railway officials,—over rates and conditions of transportation.

---

[33] *Cong. Debates, 1830-31, (H. of R.)*, VII, 400.

[33] The act as passed was a Senate bill. It passed the House Mar. 1, 1831; see *Cong. Debates, 1830-31*, Appendix, p. 52.

[34] At this time the federal government owned much property in Washington.

[35] See above, p. 211.

[36] This act expired of its own limitations before the road was built, and it was renewed by an act of Feb. 26, 1834.

Early mention of railways in Congress nearly always referred to their advantages for transporting the mails. Indeed, this was among the strongest arguments of those who supported congressional aid for railways.

Very early, however, the exactions of railways, real or supposed, made necessary regulation by Congress. In fact, this necessity was foreseen. In February, 1832, DeWitt Clinton, U. S. C. E., made report upon a survey for a railway from Portage Summit, O., to the Hudson river, in which he stated that it was reasonably to be expected that New York, Philadelphia, Baltimore, and Washington would soon be connected by railway, and numerous mail routes be opened throughout the country. "If the United States should not, therefore, be able to secure an interest in these works, or be able to control them, the transportation of the mail will be monopolized," or be forced to resort to slower and more uncertain transportation over roads.[37]

In 1831 President Jackson, in a message, referred to railways as a beneficent institution.[38] By 1835 the development of the situation in regard to mail service was such that he used the following words, which must be quoted to be appreciated: "Already does the spirit of monopoly begin to exhibit its natural propensities, in attempts to exact from the public * * * the most extravagant compensation. If these claims be persisted in, the question may arise whether a combination of citizens, acting under charters of incorporation from the states, can, by a direct refusal, or the demand of an exorbitant price, exclude the United States from the established channels of communication between the different sections of the country; and whether the United States cannot, without transcending their constitutional powers, secure to the post office department the use of those roads, by an act of Congress which shall provide within itself some equitable mode of adjusting the amount of compensation."[39] He suggested that the amount to be paid for the transportation of the mails be fixed by law.

[37] *Exec. Docs., 1831–32,* No. 133, point No. 84.

[38] Above, p. 249.

[39] *Message of President Jackson,* Dec. 7, 1835. *Acts of Cong.,* 24 Cong., 1 sess., Appendix, p. 11.

These are strong words—such as might have been expected from Jackson. But in the very same month Amos Kendall, the post master general, spoke in a similar vein. He called attention to the fact that the Constitution gave Congress power "to establish post-offices and post-roads," and asked whether a railway being established by Congress as a post-road, it would be possible for the company to obstruct the carriage of the mails? Whether, in case a railway company did so,—either directly, or indirectly by adopting "unreasonable" rates and inconvenient hours,—the government might not place its own locomotives on the road, and so fulfill the law?[40] Kendall's words suggest broad vistas of government intervention., and especially those in which he refers to "rights which the government may have to use railroads owned by private companies for public purposes,"[41] saying, however, that it was not necessary to press such claims upon the companies.

It is noteworthy that the attitude of Congress and statesmen was one of prudent hesitancy as to pushing the matter of interference. Jackson said the question *may* arise; Kendall hoped it would not be necessary; in 1836 the Senate committee on post office and post roads reported: "It is prudent, if it be practicable, to avoid the question altogether."

This was but the beginning of a long struggle. We find President Tyler denouncing railway exactions for mail service and stating that some measure might become necessary to guard against them.[42] In 1838 all railways were made post routes, and the postmaster general was directed to have the mail transported upon them if it could be done "upon reasonable terms;"[43] in 1839 maximum rates were fixed by Congress;[44] and in 1845 a comprehensive act was passed which divided railway routes into three classes on the basis of speed and importance, and fixing maximum rates for each class.[45]

---

[40] *Report of the Post Master General,* Dec. 1, 1835.
[41] *Ibid.*
[42] *Sen. Docs., 1841–42,* I, No. 1, p. 15.
[43] *Exec. Docs., 1847–48,* II, No. 8, p. 1319.
[44] *Ibid.*
[45] *Acts of Cong.,* 28 Cong., 2 sess., chap. 43.

One interesting phase of the struggle to regulate railways in their transportation of the mails was the idea of fostering competition. This idea gained some prominence. Thus in 1836 Senator Benton, in debate over the subject of railway mail contracts, stated his opinion that Congress ought not to surrender so quickly,—agreeing that they could not get along without "these railroad companies." And he proposed relays of horses, letters being sent separately from other mail matter for greater speed, by which means he hoped they might travel as fast as the railroad cars.[46]

There is no evidence that the idea was very seriously entertained, and such propositions were perhaps made rather as threats, for the purpose of securing concessions from the railways. That is the tenor of a resolution which passed the House in 1841. It runs: "Resolved, That the committee on the Post Office and Post Roads be instructed to inquire into the expediency of a bill authorizing the Post Master General to establish express mails along the great lines of steamboats and railroad communications, in case he is not able to make contracts to have the mails transported * * * by railroad or steamboats, for the rate of compensation prescribed by law."[47]

3. *The Public Defense*

The utility of the railway for military operations was early called attention to in Congress,[48] the experiences of the War of 1812 giving weight to this consideration. In debate over granting a right of way, Mr. Parks said,[49] that the Seminole war illustrated the necessity for transporting troops and munition of war, "and unless some provision was made by the Government for compelling these companies to carry government property, they might charge their own price, or even refuse to carry them." Like the carriage of mail, this considera-

[46] *Cong. Globe*, Apr. 7, 1836, III, 313. See above p. 239. At this time it was not entirely and generally certain that railways were more desirable than stages for the transportation of the mail.

[47] *H. J., 1841 (special sess.)*, p. 357.

[48] E. g., *State Papers, 1829–30*, I. No. 7, p. 20 ff; and below in the chapter on monetary aid.

[49] *Cong. Globe, 1836–37*, p. 115. Atchafalaya railroad.

tion was used as an argument for government aid; and like the mail service, it became a ground for government regulation. No evidence that it led to actual regulation has been found, however, and it cannot be called an effective factor to that end. It merely contributed to a tendency toward regulation.

4. *Territories*

Another case of government regulation occurred in regard to a railway in the territory of Florida. In 1838, an act[50] was passed by Congress in confirmation of the act of the Legislative Council of Florida incorporating the Florida Peninsula Rail Road & Steamboat Company. In this act it is provided that during Florida's existence as a territory, Congress might at any time prescribe and regulate the tolls of the company.[51] The company was also prohibited from doing a banking business, and its surveys were to be made within one year.

Here then was a field in which, as in the District of Columbia, government control might naturally arise.

5. *Public Lands*

Quite similar was the relation of Congress to such railways as passed over the lands held in the name of the general government. In the period of our history now under consideration, vast tracts of public land lay unclaimed within the boundaries of the southern and middle western states. To open these lands to settlement, railways were later encouraged; and when, as was frequently the case, they had to cross such land, they naturally became subject to regulation by Congress. Thus it was stated that when a railroad went through the public lands, it was the duty of Congress to provide some power by which they might be compelled to carry the mails, troops and supplies of the government[52] free or at reasonable rates.

6. *Investment*

Where assistance was given to railways by the government and was regarded in the light of an investment,[53] there was a

[50] *Acts of Cong., 1837-38*, chap. 150, sec. 7.

[51] Upon admission as a state, like power was to pass to the State Legislature.

[52] *Cong. Globe, 1836-37*, p. 116. For statement of similar idea, see *Report of Special Committee on Memphis Convention (1846)*.

[53] See above, p. 255.

tendency to regulate. Mr. Niles expressed the idea when he said that he thought if the general government contributed to the construction of a road, it ought to have some control over it.[54] There is certainly a tendency on the part of a person or a group of persons to look for something in return for a favor granted. Probably there is no one who will not agree to this statement and perhaps the best explanation for the fact lies in "human nature." This tendency was evinced by certain congressmen and popular conventions and that it was carried out to so slight an extent might be taken as one form of aid to railways.

Summary

Almost from the first appearance of the railway in the proceedings of Congress, it was recognized as being different from other means of transportation in its economic and social relations. On the one hand, its advantages to the nation as the most rapid and efficient means of intercommunication were soon realized; on the other, its tendency to monopoly and exaction was early observed, and it shared with other capitalistic enterprises the hostility of those people who were inclined to oppose such concentration of wealth as existed.

Both its beneficial and its harmful capacities brought it into close relations with the government; in the earlier days of small capital and loose federation, its advantages as a bond of union led to movements for government construction and assistance, and like conditions in the case of the Pacific roads induced a like attitude; while the realization of harmful tendencies brought agitation for government ownership, or regulation. The last tendency alone was put into practice.

In some six distinct ways, the government tended or actually came to regulate railways:

1. As sovereign in the District of Columbia.
2. As supreme authority in the territories.
3. As "proprietor" of the public lands.

---

[54] *Cong. Globe, 1845–46 (Sen.)*, p. 752. The attitude is found in debates on remission of duties on railroad iron, and is frequent in connection with land grant discussions.

4. As distributor of the nation's mail.
5. As provider for the public defense.
6. As an "investor,"—of aid to railways.

More chronologically, four periods may be distinguished in the social and political history of railways down to 1850,—what may be called the railway movement.

I. *Prior to 1825:* First came a period of doubt and prophecy. This was before any practical railway transportation existed in the United States. Men speculated upon the advantages to the Union of so rapid a means of communication, and turned to the government for assistance. The great need for "internal improvements" went hand in hand with a rather paternalistic attitude of Congress toward such measurers.

II. *1825–1835:* Roughly in 1825, Congress began to take active interest in railways. This was eminently a period of experiment. Some inclination toward actual construction by government was shown. Only toward the close of this period did "states' rights" become an issue. Canals, turnpikes, and railways were all considered together, and were regarded as a legitimate field for pretty active government co-operation, though government ownership and operation were regarded as a political impossibility.

III. *1835–1845:* By the year 1835 the railway had become a practical factor in the nation's transportation economy. After 1835 it superseded canals and roads as a national "improvement." But national internal improvement ceased to be a live political issue. About this time, too, the railway came into considerable disfavor with a large part of Congress. Exactions in connection with the mail service caused agitation for control, and there was much complaint concerning supposed monopolistic and undemocratic features. This period is characterized by a tendency to regulate, the mail problem being its most salient feature.

IV. *1845–1850:* A feature of the last five years of the first half of the century was the agitation of a railway to the Pacific. This brought on discussion of the attitude of government to railways, in which clear expression was given to the idea that our political institutions made government ownership and opera-

tion impossible. Though a few bold men, mostly from the West, advocated a government road, this idea prevailed. The growth of railways in the West, where lay the unclaimed public domain, makes the point of contact between railways and government which characterizes these years.

BOOK II

AID TO RAILWAYS

CHAPTER VIII

GENERAL INTERNAL IMPROVEMENT FUNDS*

As price cannot long be less than sufficient to cover the expenses of producing most commodities, but tends to equal such expenses, so, in the long run, the attitude of the people and of Congress towards internal improvements in general and railways in particular tends to correspond to the necessity or expediency of such improvements; at any one time, however, adventitious factors and sentiments may make them "popular," or bring them into disfavor.

The Year 1825: Factors Making for Internal Improvements

In the year 1825, internal improvements were exceedingly popular. New York had just completed the Erie Canal, thus arousing pangs of jealousy and inciting emulation on the part of her sister commonwealths. Government aid to the states in prosecuting systems of transportation was in high favor in most localities, such opposition as was made proceeding upon constitutional grounds.

Again, the country had recently recovered from the panic of 1819–20. The national credit stood high, both agriculture and manufactures were flourishing, and a tendency toward optimism arose. The public debt, too, was fast decreasing, and at the

* The present chapter takes up the subject at the time railways begin to be considered. That there were earlier developments should be borne in mind. When Ohio was admitted in 1802, 5 per cent. of the net proceeds of the sales of public lands within her borders was set aside as a fund for constructing roads and canals, and similar funds were established for other western and southern states. In 1817, the celebrated *Bonus Bill* proposed to distribute the amount paid by the United States Bank for its charter among the states. In 1818 it was resolved in the House that Congress had power to appropriate for canals, roads and waterways; and in 1819 Calhoun reported in favor of a general system of internal improvement along the lines proposed by Gallatin in 1808.

beginning of 1825 amounted to only $79,000,000. This sum would soon be paid off, and a surplus arise. John Quincy Adams, beginning his administration at this time, made a national system of internal improvement his one great policy.

In 1825 the House committee on roads and canals concluded its report on internal improvement in these words: "We can never expect to see a more propitious period than the present to commence the internal improvement of the country, on a scale worthy of the importance of the subject; the prospect of a long peace lies before us, and there seems to be nothing else of high interest to engage the councils of the Union * * * * *."[1]

Now this same report contains a reference to railways,[2] and in the first chapter evidence has been presented to show that at exactly this time Congress was considering the same subject. In England the railway was applied to general commerce in a practical way in 1825, and this country was stimulated to similar projects.

Lest it be thought that the significance of railways at this time has been exaggerated, the following resumé of articles referring to the subject has been taken from a single newspaper for a single year, 1825: The English run wild to invest their capital, the prevailing "notion" (!) being that steam railroads are more expeditious and cheap than canals.[3]—$70,000,000 are already invested in English railway stocks!—It is calculated that upon a railway having considerable traffic, merchandise may be transported at 2 d. per ton per mile, and passengers at ½ d. per mile.—The London *Courier* says concerning Minister Rush, that "the American government has possessed itself, through its minister, of the improved mode of constructing and making railroads, and there can be no doubt of their immediate adoption throughout that country."[4] An English journal is quoted at length showing the advantages of railways over canals.[5] A similar notice appears in which it is

[1] *Rep. of Com., 1824–25*, II, No. 83, p. 14; *Niles' Register*, XXVIII, 95.
[2] *Ibid.*, p. 4.
[3] *Niles' Register*, XXVIII, 54.
[4] *Ibid.*, p. 68.
[5] *Ibid.*, p. 143.

stated that merchandise may be conveyed on railways more rapidly than on canals, and at one-fourth of the cost.[6]—The legislature of Pennsylvania is considering making an experimental railway at Harrisburg, and a locomotive is now constructing for the same.[7]—An account of the opening of the Stockton & Darlington railway is given.[8]—An English railway is described, and a quotation given to the effect that a railway from Albany to Schenectady would be useful and profitable.[9]

All these considerations make it clear that from about 1825 on, the congressional histories of internal improvements and of railways are one.

Bills and Resolutions for an Internal Improvement Fund

1. *Railways not specifically mentioned*

On December 22, 1824, Mr. Johnson (La.) submitted a resolution in the Senate the main idea of which was that the public lands should be appropriated and pledged as a permanent fund for education and internal improvement.[10] This fund derived from land sales was to be invested in United States Bank stock, government stock, or other stock, as Congress might direct; the proceeds were to be distributed among the states according to their ratios of representation, one-half for education, "and the other half shall constitute a fund for internal improvement, to be applied to these objects under the authority of the respective states." This resolution was not carried.[11]

A few days later Mr. Stewart (Penn.) offered a similar resolution in the House.[12] He referred to ample revenues and the flourishing condition of national finance, growth of population, increase of internal trade, and vast extent of territory, and proposed that a bill be reported pledging the proceeds of land

[6] *Ibid.*, p. 191.
[7] *Ibid.*, XXIX, 35.
[8] *Ibid.*, p. 184.
[9] *Ibid.*, p. 403 (Feb. 1826).
[10] *S. J., 1824-25; Niles' Register*, XXVII, 270. From another standpoint, this and similar measures are equivalent to land grants for internal improvements.
[11] Dec. 25, 1824; discussed and laid on table for the present.
[12] Dec. 28, see, *H. J., 1824-25*, p. 87; *Niles' Register*, XXVII, 286. This resolution was ordered to lie on the table to be printed.

sales and the dividends of the United States Bank stock "as a permanent fund for the purposes of internal improvement." Accordingly, on February 26, 1825, a bill was reported by the House committee on roads and canals which authorized the President to borrow funds up to $10,000,000, to be invested by the secretary of the treasury in such companies incorporated by the states as Congress should approve. The same official was to vote such stocks and receive the dividends arising therefrom.[13]

In January, 1826, there were two similar proposals: one, a House bill[14] reported by Mr. Hemphill; another, a resolution[15] submitted in the Senate by Mr. Dickerson, which proposed to require the secretary of the treasury to distribute $3,000,000 annually among the states for education and internal improvement.

Thus in the middle of the second decade of the nineteenth century, there was evinced in Congress a strong movement for the establishment of a general fund for internal improvement, and the railway, having by that time come within the scope of that term, this movement is of importance to the history of aid to railways. Its direct relation to the present history consists in the light it throws upon the immediate setting or atmosphere in which the railway entered Congress.

2. *Railways specifically mentioned*

In at least one proposition for a general fund made at this time railways were specifically mentioned. On December 27, 1825, Mr. Test offered the following resolution: Resolved, "That the Committee on Roads and Canals be instructed to inquire into the expediency of establishing a general system of Internal Improvements embracing canals, roads and railways, with a fund derived from the sale of Public Lands or otherwise * * * to be distributed among the several States, if required by them, agreeably to their population."[16]

In the following year we find an important set of resolutions advanced in the House by Mr. Mercer (Md.), who, it will be

[13] *H. J., 1824–25*, p. 274; *Rep. of Com., 1824–25*, II, No. 83. Bill together with report laid on table.

[14] *Niles' Register*, XXIX; 350.

[15] *Ibid.*, and *S. J., 1825–26*, p. 321; laid on table, p. 342.

[16] *Cong. Debates, 1825–26* (*H. of R.*), II, Pt. I, 861.

remembered, was to be president of the Chesapeake & Ohio Canal Company, and was prominent in its controversy with the Baltimore & Ohio Railroad Company.[17] These resolutions may be summarized:

1. It is expedient to establish a fund for internal improvements and devise rules for its proper application to such roads, railways and canals as may be deemed by Congress to lie within its constitutional powers.

2. This fund shall consist of a portion of the unappropriated annual revenue.

3. A system for collecting information for the distribution of this fund shall be devised, embracing United States engineers, both military and civil,—a corps of topographical engineers from the latter to collect information, the residue to estimate cost of public works already begun. And at each census the fund shall be appropriated for the next ten years.[18]

4. Preference shall be given to the instrumentality of joint stock companies, the income from such investments to constitute a special fund for payment of interest on loans and carrying out similar works of a public nature. The stocks shall be disposable by the United States for use, in case of need, for public defense.

This set of resolutions constitutes one of the most comprehensive schemes for the creation and administration of a general fund for internal improvements which was proposed in Congress at this time.

National Internal Improvements Lose Favor

Shortly after this period the system of national internal improvement began to meet opposition and decrease in popular-

[17] Above, p. 221.

[18] The census tables were to "comprehend especially descriptions of artificial roads, railways and canals, * * * * denoting of railways, the number of lines of parallel rails, and their horizontal inclination; of the canals, their breadth and depth of water, and of all of those public works, their denominated length, actual cost and annual profit", with tonnage carried, etc. Some attempt was made to follow this idea, and in 1835 a statistical view of the U. S. from 1790 to 1830 was published. Inquiries were sent to state and county officials, but on internal improvements returns were only received from six states, and were not published.

ity, and consequently there was a decline in the movement to establish general funds for prosecuting canals, roads, and railways. For a time, bills and resolutions for such a fund continued to appear in Congress;[19] but the opposition of the South began to form, and this, together with the hostility to corporations and some abuses in the administration of the system,[20] gave rise to a series of counter resolutions, and by 1835 the movement was largely spent.

There remains to be discussed, however, one incident in the early congressional history of internal improvement funds. On May 22, 1830, the Senate took up a bill for authorizing a subscription to the stock of the Baltimore & Ohio Railroad Company, and after some discussion, Mr. Livingstone (La.) brought forward an amendment which required that funds for the proposed subscription be drawn from the sale of other stocks invested in works[21] of similar character. This alone, said he, could save "the system of internal improvement" from destruction. Mr. Webster (Mass.) agreed: he thought the funds of the general government in works of internal improvement ought to be a circulating fund; adding, however, that to dispose of stocks might be inexpedient. Mr. Grundy stated that if a transfer of stock from the Chesapeake & Ohio canal would answer, well and good; but he would vote against a project to draw money from the treasury.[22]

Thus the idea comprehended in this discussion was that of a mobile "fund" to be invested in a company, and then,—when the company was on its feet,—by a sale of stock to be made available for new works.

President Jackson, in his message of 1831, suggested employing the surplus revenue, which was about to arise, in works of internal improvement, and he referred to railways as holding out great hopes for the future.[23]

In the resolutions proposed by Mr. Mercer in 1826, the establishment of a system for obtaining information was given

[19] See indices of *H. J.* for *1827-28*, and *1828-29*, under *Internal Improvement*.
[20] *Ibid.*
[21] Ches. & Ohio Canal, Ches. & Del. Canal, etc.
[22] The amendment was not carried and the bill failed 21 to 19.
[23] Above, p. 249.

great importance, and a corps of engineers was proposed. Indeed, such a system was indispensable, nor was the preliminary work of examination and survey open to such constitutional objections as was investment in established enterprises. The nearest approach to the general internal improvement fund so strongly advocated from 1824 to 1826 ever reached by Congress was an annual appropriation for general surveys, which forms the subject of the following chapter.

CHAPTER IX

GOVERNMENT SURVEYS

The General Survey Bill: 1824

The period lying roughly between the years 1822 and 1824 was one of active and prolonged discussion concerning the proper attitude of our government toward the subject of internal improvements. Although, in 1822, Monroe's veto had resulted in the failure of a bill[1] which would have brought the operation of the Cumberland Road within the control of Congress, there were whole days of debate over the power of Congress to "establish" works of internal improvement during the two years that followed.[2] Belief in the expediency of such a power was strong, but constitutional scruples proved stronger. A distinction was drawn, however, between actual construction by government and assistance given preliminary to construction by state or corporation, and along the line of this distinction a measure in the nature of a compromise was passed. This was the so-called general survey bill of April 30, 1824.

In the early years of the century civil engineers were very scarce relatively to the demand for them. The settlement of our vast public domain and numerous roads and canals constantly required the service of surveyors and engineers, and on some of the larger works foreigners were employed.[3] The period was one in which new lines of communication and transportation were rapidly projected,—one of births and expansions. The work of plans, surveys and estimates was in great demand

[1] See above, p. 254.

[2] See *Annals of Cong., 1823-24*, e. g., p. 1022 ff.

[3] French engineers were in repute and were employed in connection with the Chesapeake & Ohio canal.

and of high relative importance at this stage, and it was natural that a government which was desirous of increasing the facilities for its commerce, and which maintained a corps of engineers in its employ, should have begun with aid to these initial steps toward the construction of such facilities. The first assistance ever granted by Congress for railway purposes was given in the shape of a survey by government engineers.

The survey bill of 1824 authorized the President to cause the necessary surveys, plans and estimates to be made for the routes of "such roads and canals as he may deem of national importance, in a commercial or military point of view, or necessary for the transportation of the public mail;" and a limited number of civil engineers and officers of the corps of engineers was placed at his disposal. Thirty thousand dollars annually was the amount appropriated to cover expenditures.[4]

The act contains no mention of railways. Some little significance attaches to this fact, in that, as has already been made clear, the attention of Congress had been called to this means of conveyance,[5] and at its very next session several propositions for experiments with railways were made. Yet at this time no railways capable of competing with roads and canals for general commerce existed in the United States, and it is not necessary to ascribe the omission to a disbelief in their advantages. At the time, railways were of no practical importance.

On January 24 of the following year, 1825, a resolution was brought forward in the House which considered an appropriation toward sending four military academy graduates to Great Britain, "for the purpose of examining the improvements made in that kingdom in the roads, railways, canals, and other

[4] *Laws of the U. S.*, VII, 239. *Acts of 1823–24*, ch. 276.

NOTE.—The rules which came to be prescribed concerning these matters were, (1) Surveys ordered by law, generally provided for by specific appropriation, should be made; (2) Surveys ordered by resolutions of Congress, the expenses of which, including pay of civil engineers, were defrayed from annual appropriations; (3) "Surveys of a national or highly interesting commercial character, applied for by states or incorporated companies,"—aid in this case being confined to the loan of such engineers and instruments as could conveniently be spared. (See *Sen. Docs., 1835–36*, I, 219.) Thus in the statements of surveys many are included which were not ordered by resolutions of Congress or by any law. (See Appendix to this chapter.)

[5] See Latrobe's *Report*, Dearborn's *Petition*, Oliver Evans, and John Stevens, etc.

branches of civil engineering.''[6] Such men, had they been sent, would have placed the fruits of their examinations at the disposal of works of internal improvement under the act of 1824, and the inclusion of railways in the resolution is suggestive. On the other hand we are told that the demand for surveyors encouraged the study of civil engineering among United States cadets.[7]

The next month a report of the committee on roads and canals—which outlined a comprehensive scheme for surveys—mentioned the advisability of making experiments with railways.[8]

The First Railway Route Surveyed: 1825–26

Whatever significance may lie in the fact that railways were not specifically mentioned in the act of 1824, within the course of two years we find a part of the fund appropriated under this act devoted to a survey for canals or railways, and soon government engineers were busy surveying, planning and superintending the construction[9] of numerous lines for the new means of transportation. In the State Papers of 1826–27[10] is a document showing the number and designation of the several examinations and surveys made since the passage of the general survey bill and under its provisions. The twenty-fifth item under this head runs as follows: ''Examinations and Surveys to ascertain the practicability of uniting the headwaters of the Kenawha[11] with James river and Roanoke river, by Canals or *Rail-ways.*'' These surveys are believed to be the first aid ever given by our government for railway purposes. They were made between 1825 and 1826.

In the first place, it will be noted that the surveys were made

---

[6] *H. J., 1824–25*, p. 163. The resolution was proposed by Mr. Livingstone, La. It was decided in the negative.

[7] *Niles' Register.*

[8] *Rep. of Com., 1824–25*, II, No. 83, p. 4.

[9] These various operations are all included under the term, survey, in the text. Surveys predominated.

[10] Vol. V, No. 83. No report upon this survey found.

[11] Kanawha river, W. Va., flows into the Ohio. The survey brought no immediate tangible result.

for canals or railways. The railway had only just entered the field as a practical means of transportation, and the wonder is that it was considered at all. Perhaps the great natural obstacles to canal construction presented by the region accounts for it, or perhaps "rail-ways" was inserted as a mere contingency. We cannot say. But inasmuch as Congress was seriously considering railways at this time, it would seem that the mention is of importance. Simply, the superiority of railways over canals had not been demonstrated.

Again, these improvements were to be made in the South. The importance of the efforts of the south Atlantic states to open communication with the Ohio valley to the development of railways has already been touched upon.[12] The proposed route would have opened direct communication over the Alleghenies between the languishing industries of Virginia and North Carolina on the one hand, and, on the other, the Ohio and the boundless resources of the Northwest. In the report on internal improvements made by the House committee on roads and canals, this line of connection was proposed, the words of the committee being: "James river, in the state of Virginia, it is believed, can be connected with the Kenhawa, which empties into the Ohio. This will afford that valuable section of the country a water communication to the Lakes, through the canal to be cut from the Ohio river to Lake Erie."[13]

It was the same end which caused the construction of the Baltimore & Ohio and the Charleston & Hamburg railways,—to say nothing of the internal improvement enterprises of Pennsylvania or New York,—and several southern railways, the surveys for which will be found noted in the table appended to this chapter.[14]

---

[12] Above, p. 220.

[13] *Rep. of Com., 1824-25*, II, No. 83, p. 8.

[14] The following report of a Georgia commission is interesting and typical:

"Your commissioners can say, . . . that they do not believe that there is in the United States so small a work of internal improvement as the contemplated rail-road, fraught with consequences so important . . . to the same extent of country . . . The first and most important inquiry for the people of Georgia is, have we within our own State an *outlet* for our immensely valuable productions, and an *inlet* for 'foreign goods', that may be made to vie with the large sea-ports in other states? . . . Savannah, we fear, is pros-

Surveys Become Frequent

After this first survey, similar grants of assistance to states and corporations for railways became quite frequent,[15] reaching a maximum in 1835, at which time some thirteen different railway routes were reported as receiving aid from the Topographical Bureau.[16]

The Senate Calls a Halt: 1828

The rapidly increasing number of works of internal improvement benefiting by the service of government engineers was not slow to beget abuses and arouse opposition. As no law was necessary, the resolution of a state legislature or the petition of a corporation was sufficient to secure a survey,[17] and this led to practices which caused complaint. The modern pessimist would say, "another case of 'graft.'"

In 1828 a House bill making appropriations for internal improvements was taken up by the Senate.[18] Chief among several amendments proposed was one providing that the appropriation of $30,000 should be confined to such surveys as had already been undertaken.

Mr. Hayne (S. C.) strongly supported the amendment, urging that the system had been extended to innumerable surveys and promised to become interminable. He, together with Mr. McLane (Del.), complained that purely local objects had been

---

trated by the completion of the Charleston rail-road to Augusta, . . . Our system of internal improvements has been radically defective. Instead of directing our operations to one important point on the sea-coast, we have been working from village to village, carrying our improvements across the state: thus giving facilities to the passage of our produce into other markets. . . . Georgia has not a moment to lose. . . . "

Report of Georgia Commissioners appointed to examine the port and railway of Brunswick; submitted to the State Legislature, July 17, 1833.

(See *Exec. Docs., 1836-37*, III, No. 122, p. 13.)

[15] Roads and canals were far more frequently aided at this early time, and the Act of 1824 was repealed at the 1837-38 session of Congress. The general term. survey, as used embraces examinatons, estimates, and superintendence of construction which was sometimes afforded.

[16] At this time the Bureau reported its engineers to be engaged on some thirty-five different works.

[17] See note to p. 276.

[18] *Cong. Debates, 1827-28 (Sen.)*, IV, Pt. I, 604, April 8 and 9.

surveyed, such as the law of 1824 had never contemplated. "The effect of this system," said Hayne, "would be to raise false hopes, and paralyze the exertions of the States themselves." It is clearly to be inferred from the utterances during this debate that complaint was being made on the ground that surveys had favored states, individuals, and corporations; and here, again, we catch a glimpse of the popular distrust of private aggregations of capital.

Mr. Webster (Mass.) opposed the amendment,[19] and defended corporate activity, saying that corporations very often had more regard for public good than for private interest. What objection was there if a corporation or an individual served the utility of the nation? Mr. Smith (Md.) thought it inexpedient to deprive such states as had not yet received surveys of the benefits of the appropriation. He referred to the valuable aid received by the Baltimore & Ohio Railroad Company and stated that similar aid was wanted in South Carolina.[20]

When the question as to the amendment's adoption was put, the vote stood a tie. This placed its fate in the hands of the Vice-President. The Vice-President was John C. Calhoun (S. C.) He cast the deciding vote for the amendment,—against further government surveys.

Upon return to the House, however, the amendment was objected to, and, to cut a long story as short as may be, an act was finally passed so amended as to read: "That this appropriation shall not be construed into a legislative sanction of any examination or survey which shall not be deemed of national importance,"—merely a declaration of principles.*

---

[19] *Ibid.*

[20] For the Charleston & Hamburg railroad.

* NOTE.—The names of the senate speakers in this debate suggest an interesting analysis in the light of sectional interests. Hayne and Calhoun were representatives of states' rights, and were opposed to tariffs and internal improvements. McLane of Delaware came from a state which had no great profit to expect from government surveys. Webster, the winner of the Dartmouth College case, the nationalist, whose constituents were about to receive numerous railway surveys, was true to his section in defending corporate activity and in opposing the amendment. Baltimore lay in Maryland, and Mr. Smith was naturally favorable to the extension of railways and canals. Mr. Johnson of Louisiana, who took the same side, represented a region which was to profit by government aid (Lake Ponchartrain to New Orleans, St. Francisville to Woodville).

Undoubtedly there was much truth in the charges against the operation of the Topographical Bureau. When any locality or corporation could make application for engineers, and so shift even a minor expense upon the government, the door was open to selfish and corrupt influences. It led to log-rolling and to abuses of patronage.[21] Such evils made a force which operated against government aid and contributed to bring the system of national internal improvement into discredit in the thirties.

Moreover, from the outset, the power invested in the executive by the act of 1824 was jealously watched by Congress. Between 1825 and 1830 there were numerous resolutions introduced in the House proposing to substitute specific appropriations to be approved by Congress for the general survey appropriation, and there was a movement to demand that a description and estimate of cost and time required for the completion of each work accompany the appropriation.[22]

Representatives of the South, again, wished to restrict national activity, whether executive or legislative, and it was this factor which was largely responsible for the propositions which appeared from time to time[23] to limit the appropriations for surveys to such works as were already under way. This opposition is distinct from that due to corruption and local surveys.

Evidence of a tendency to hostile investigation appeared in 1836, when a senate resolution[24] demanded a report relative to the employment of the topographical engineers. The report indicated six railway enterprises, of which three had been granted aid upon application of incorporated companies, two upon resolution of state legislatures, and one upon application of a senator for his state.[25]

---

[21] Schouler, *U. S. History*, III, 481, writes of 1830: "Even in the matter of surveys it had come to such a pass that a state, a town, or a private company, with a road or canal to construct, pushed to have the work laid out at the cost of the U. S."; and this was true for railways also.

[22] See *H. J.*, *1826-27*, pp. 108, 118, 233; *Ibid.*, *1827-28*, p. 359; and in general the indices of the *H. J.* under *Inter. Imp.* These resolutions were commonly laid on the table.

[23] *H. J.*, *1826-27*, p. 319; *Ibid.*, *1827-28*, p. 388-393; above, p. 279.

[24] *S. J.*, *1835-36*, p. 450.

[25] *Sen. Docs.*, *1835-36*, VI, No. 419.

The Act of 1824 Repealed: 1837–38

It was not until the following session, however, that the opposition to the system of government surveys for internal improvements triumphed, and the act of April 30, 1824 was repealed. This was accomplished in "An Act to increase the present military establishment of the United States and for other purposes."[26] That the same forces were at work is evident from the remarks of Senator Buchanan who, in debate over this measure, said that he had evidence that officers of the army were being employed by railway and canal companies, and that large fortunes had thus been accumulated, while the government's business was neglected.[27]

It is not unlikely that such evils were considerably exaggerated, and certainly no great loss to the government was involved. The report of the Topographical Bureau for 1838[28] states that the practice complained of existed in the case of only four officers of that bureau, but two of whom were officially assigned, the other two acting "informally." The Bureau, moreover, evidently did not deem this an evil, urging that government surveys had not been neglected.

It seems probable that conditions surrounding the crisis of 1837 had much to do with the repeal of the survey act at this time.

Discussion of the Various Surveys: 1825–44

The significance of the first survey for a railway route has been dwelt upon at some length, and attention has been called to the fact that it was made for a canal or a railway. Between this time and 1833 five surveys were directed toward the same end, one more in 1833, and one in 1834. After that date canals and railways were not considered as alternatives in the

[26] *Acts of Congress, 1837–38*, chap. 162, sections 6 and 31: The act further provided that no officer should be separated from his regiment for employment in civil works of internal improvement or enter the employ of *incorporated companies;* provided that where they could not be conveniently withdrawn from work already undertaken, they might remain one year.

[27] *Cong. Globe, 1837–38*, p. 133.

[28] *Sen. Docs., 1838–39*, I, 366.

same survey, and it is more than a coincidence that this fact corresponds with the conclusion that about 1835 the superiority of railways was realized.

Several conclusions of interest and importance are revealed by a statistical study of the surveys. Between 1824 and the repeal of the survey act in 1838, some sixty-one distinct railway surveys[29] were mentioned in congressional proceedings. Of these, fifty-nine represent surveys actually reported or inquired into, one having been negatived, and another being unspecified and indefinite.

Thirty-nine[30] of these surveys were for railway routes lying north of the Baltimore & Ohio railroad, and of these, ten lay west of the Allegheny mountains. Naturally the latter were of a later date, seven of the ten being made between 1835 and 1839.

South of the Baltimore & Ohio, some twenty-one distinct surveys were made prior to 1838,[31] and a survey for a road from St. Johns to the Suwanee river[32] and an estimate for one across the peninsula of Florida,[33] which were made after the repeal, bring the number up to twenty-three.

Thus, on the score of surveys for railways, the South had little to complain of, and not only the earliest but the most considerable government surveys under the act of 1824 lay south of the Baltimore & Ohio. In this section routes were surveyed from Charleston to Hamburg, Winchester to Harper's Ferry, Augusta and Savannah to Memphis, and many others, with the general aim of connecting the sea-board with the interior.

All the states then embraced in the Union received aid save only Illinois and Delaware, no record of government surveys being found for those states. In New Hampshire, North Carolina, and Florida, however, but little was done. Georgia seems to be the state most favored, though several routes were surveyed in both Massachusetts and Alabama.

---

[29] Some partly over same route, but nevertheless distinct.
[30] Does not include unspecified surveys in N. Y., Mass., Conn. and R. I.
[31] Including unspecified survey in North Carolina (1836).
[32] *Exec. Docs., 1842-43*, III, No. 78.
[33] *Sen. Docs., 1843-44*, II, No. 62, p. 19.

It has been said that in the early days of railway construction it was thought that the chief lines were to run north and south. In view of this statement, it is interesting to observe that the great number of the government surveys lay in a general east and west direction.

In this connection, too, the relation of railways to water transportation comes up again,[34] and the necessary conclusion is that the majority of the surveys were made without reference to subsidiary or auxiliary relations to rivers or canals. There were some, such as the routes from the Kanawha to the James, the Pearl to the Yazoo, the Allegheny to the Genesee, and the Tennessee to several southern rivers; but there were other surveys, such as that along the Connecticut river, and the short roads in New York, and the Baltimore & Ohio that paralleled rivers and canals, and the routes of the Charleston & Hamburg and the Brunswick railways, and the surveys from Pensacola to Columbus, Memphis to Augusta, etc., were calculated to take commerce from the rivers. Most of the other surveys were made to connect points inland with the ocean, taking the place of rivers, as it were.

It is of some significance that in most cases the routes of these government surveys were early taken by railways. Of 27 railways actually existing or partly in progress in 1833[35] at least 10 had received government surveys; and these 10 are all included within the 18 roads which were twenty-five miles or over in length. A comparison of a modern railway map with the map of surveys shows that in the great majority of cases these early surveys have been closely followed.

---

[34] See above, p. 226.

[35] Arfewdson, *The U. S. and Canada in 1832, 1833 & 1834*, II, 265. This list includes in addition the Quincy and Mauch Chunk railways, making a total of 29.

APPENDIX TO CHAPTER IX

LIST* OF RAILWAY SURVEYS, MADE OR PROPOSED, IN ACCORDANCE WITH THE ACT OF 1824.

Year.	Purpose.	Name or Location of Road.
1824-26.....	Railway or canal....	Kenhawa (Kanawha) river to James and Roanoke rivers.
1827.....	Railway.....	Baltimore & Ohio—Preliminary examination.
		Other resolutions or reports:
1827-28.....	Railway.....	*Cayuga lake to the Susquehanna river* at or near Owego, N. Y.
	Railway or canal....	Tennessee river to Atlantic coast of Georgia.
1828.....	Railway.....	*Baltimore & Ohio:*
	"	Hudson, N. Y., to Pittsfield, Mass. ($327.08).[1]
	"	Owego to Ithaca, in New York.
	"	Ithaca to Catskill, in New York ($2,538.61).
	"	Charleston to Hamburg, in South Carolina, aid promised.
	"	Savannah river to Tennessee river.
	Railway or canal....	Tennessee river to Altamaha river.
		Other resolutions or reports:
1828-29.....	Means unspecified...	Hudson river to tidewater in Mass.
	Railway.....	Hudson and Berkshire ($885.19); Sec'y War directed to transmit report.
1829.....	Railway.....	*Catskill to Ithaca*, in New York.
	"	*Charleston to Hamburg*, in South Carolina ($5,949.51).
	"	*Baltimore & Ohio*, continued ($6,685.83).
		Other resolutions or reports:
1829-30.....	Railway and canal..	*Altamaha river to Tennessee river:* Report of survey and estimate submitted by Jackson.
	Railway or canal...	Tennessee river to Mobile river.
	" " "	Along Connecticut river to Canada; (appropriation for)
	Railway.....	Boston to Lake Champlain.
	"	Terminal of Charleston & Hamburg to Lexington, Ky.
	"	Augusta to St. Marks, Fla. (negatived).

* This list is drawn from the reports of the Topographical Bureau (after 1830), reports of Engineer. Dept. to Sec'y of War, resolutions of Congress, special messages showing the operations of the Topographical Bureau, etc. Where the exact date is given (i. e., 1827, 1828, 1829, etc.) it is intended to indicate that during that year the government engineers were actually employed on the works indicated. Where the date given is no more definite than a session (i. e., 1827-28, etc.) some special mention is indicated. The names of railways to which aid was continued throughout more than one year are italicized after the first mention; or where a survey is merely proposed at one session and is reported as actually being surveyed later, the former mention is italicized.

[1] This and the following figures are totals expended up to Sept. 30, 1830. They are found in *Rep. of Com., 1830-31*, No. 77, p. 33, and are presented to give some idea of amount expended in individual cases.

LIST OF RAILWAY SURVEYS, MADE OR PROPOSED, IN ACCORDANCE WITH THE ACT OF 1824—Continued.

Year.	Purpose.	Name or Location of Road.
1830.....	Railway.....	Catskill to Canajoharie, N. Y.
		Pennsylvania canal commissioners aided by an engineer to determine method of crossing Allegheny summit of the Pennsylvania canal.
"	Railway.....	Baltimore & Susquehanna, aided in surveys.
		Other resolutions or reports:
1830-31....	Railway.....	Boston to Ogdensburg, N. Y. (appropriation for).
1831.....	Railway.....	Winchester, Va., to Harper's Ferry.
"	"	Portage Summit of Ohio Canal to Hudson river (examination of a route).
"	Railway or canal...	*Savannah and Tennessee rivers;* completing of drawings.
"	Railways.....	*Baltimore & Susquehanna.* } Superintending con- Paterson & Hudson river. } struction of. *Canajoharie.*
		Other resolutions and reports:
1831-32.....	Railway.....	*Bennington to Connecticut river;* (see below, southern Vermont).
"	"	Genessee river to Allegheny river.
"	"	Cumberland, Md., to Hollidaysburg, Pa.
"	"	Washington to Annapolis.
1832.....	Railway.....	*Winchester to Harper's Ferry.*
"	"	St. Francisville, La., to Woodville, Miss.
"	"	Williamsport, Pa., and Elmira, N. Y.
"	"	*Hudson river to Portage Summit of the Ohio Canal.*
"	"	New London, Conn., to Worcester, Mass.
"	"	Stonington, Conn., to Providence, R. I.
"	"	Mad River, O., to Lake Erie.
		Boston & Providence.
"	Railways.....	*Baltimore & Susquehanna,* } Superintending con- *Paterson & Hudson river.* } struction of.
1833.....	Railway	Across southern Vermont; reconnaisance for.
"	Railway or canal....	Pearl river to Yazoo river.
"	Railway...	*Williamsport, Pa., to Elmira, N. Y.;* completing reports and drawings.
"	"	*New London, Conn., to Worcester, Mass.;* completing reports and drawings.
"	"	*Hudson river to Portage Summit;* completing reports and drawings.
"	"	*Stonington, Conn., to Providence, R. I.;* completing reports and drawings.
"	"	*Mad River to Lake Erie;* completing reports and drawings.
"	Railways.....	*Boston & Providence.* } Superintending con- *Boston & Susquehanna.* } struction of. *Patterson & Hudson river.* }
		Other resolutions or reports:
1833-34.....	Railway....	Falls of Ohio, via Indianapolis to Michigan City.
"	"	*Williamsport & Elmira.*
"	"	*New York & Erie.*[2]
1834...	Railway.....	*Memphis, Tenn., to the Atlantic Ocean,*[3] reconnaisance for.
	"	Across the peninsula of Michigan.
	"	*Winchester & Harper's Ferry Co.;* to ascertain propriety of granting right of way at Harper's Ferry.

[2] Same as Portage Summit to Hudson.

[3] See under 1834-35, Atlantic to Mississippi.

LIST OF RAILWAY SURVEYS, MADE OR PROPOSED, IN ACCORDANCE WITH THE ACT OF 1824—Continued.

Year.	Purpose.	Name or Location of Road.
		Surveys reported completed:
1834.....	Railway	*Williamsport, Pa., to Elmira, N. Y.*
	Railway or canal....	*Pearl river to Yazoo river*, and a survey of "Yazoo Pass."
		Other resolutions or reports:
1834-35	Railway	Tennessee river to the Alabama river, expediency called for.
	"	Will's Valley to the Alabama river, expediency called for.
	"	Point Coupee to Opelousas—proposed.
	"	Atlantic to the Mississippi—three routes.
		Northern route, Memphis to Augusta.
		Southern " " " Savanah.
		Memphis to foot of Cumberland mountains.
1835.....	Railway	*Memphis, Tenn., to Atlantic Ocean;* examination.
	"	Portland, Me., to Quebec; examination.
	"	Connecticut river to intersect Concord railway in New Hampshire.
	"	Boston to Whitehall, N. Y.
	"	Detroit to Pontiac.
	"	Detroit to St. Joseph's river.
	"	*Memphis to a point on Virginia-Tennessee line* best adapted for continuation of the road to the Chesapeake,
	Railways.....	Lawrenceburg & Indianapolis, Madison & Lafayette, Columbus & Jeffersonville.[4] — In Indiana.
	Railway	Pensacola, Fla., to Columbus, Ga.
		Other resolutions or reports:
1835-36.....	Railway	Hartford, Conn., to Canada; bill for survey of.
	"	*Charleston to Cincinnati.*
	"	Merrimac river to Connecticut river.
	"	Long Island railroad.
1836.....	Railway	Eastern shore of Maryland.
	"	Belfast, Me., to connect with a railway from Canada line to Quebec.
	"	Various routes for—in New York, Connecticut, Massachusetts, Rhode Island, and North Carolina.
	"	*Pensacola to Columbus.*
	"	Charlestown to Cincinnati.
	"	In Missouri.
1836-37.....	Railway and canal..	Brunswick Canal & Railroad.
1837...	.....	No report of Topographical Bureau.
		Reports of (previous) Surveys:
1837-38.....	Railway ?.....	*Western & Atlantic of Georgia.*
	"	*Charlestown & Cincinnati.*
	"	*Winchester & Potomac* (probably same as Winchester & Harper's Ferry.)
1838.....	Railway	Milwaukee to Dubuque.

[4] This probably coincided with part of the route proposed for survey in 1833-34, see above.

LIST OF RAILWAY SURVEYS, MADE OR PROPOSED, IN ACCORDANCE WITH THE ACT OF 1824—Continued.

Year.	Purpose.	Name or Location of Road.
1839.....	Railway	*Milwaukee to the Mississippi river;* message of the President, showing operations of Topographical Bureau.
1842-43.....	Railway	St. John's to Suwanee river; report communicated by Secretary of War.
1843-44.....	Railway	Across peninsula of Florida; estimate.

CHAPTER X

Monetary Aid

From time to time during the first three decades of the nineteenth century Congress contributed monetary aid to various transportation undertakings, and both then and later it was approached by companies which, being engaged in projecting or constructing works of internal improvement, sought for grants of money. Such grants could be made in at least two ways: Congress might make an appropriation to be applied specifically to the survey, construction, or improvement of some road, canal, or railway (i. e. Congress might donate money); or Congress might subscribe to the stock of a company engaged in such an undertaking. It is evident that the former method would apply in case the work were being prosecuted by the government itself or in case some interest other than a joint stock company were concerned; the latter method might be followed in case a stock company were organized for the work, when shares might be subscribed whether the work was merely in projection or in course of actual construction. But, of course, an appropriation might be donated to a joint stock company without taking any of the stock of that company.

It will be observed that an appropriation applied to a stock subscription would place the government in a different relation to the undertaking thus aided than would exist in case it were granted directly without a return in stock. In a sense, any assistance might be regarded as an investment, but by investing in stock the government would become part owner of the capital and be interested in the returns upon it.—its relation would be more permanent, more entangling.

Demands for stock subscriptions would only become prominent when plans of national importance were undertaken by

corporations, and as this was not the case in the earlier years of our history, it follows that the first monetary aid given by Congress was granted directly. By the second decade of the last century, however, the corporate form of organization began to figure in national internal improvements, and it is significant that just at this time Congress was beginning to take active interest in railways. Thus, while many early appropriations were applied directly to the construction or improvement of roads and canals, the first propositions for aiding a railway through a grant of monetary funds looked forward to a subscription to the stock of an established corporation.

It may be well to state here that during the first half of the century Congress actually subscribed to the stock of no railway company and no appropriation was made directly and specifically for railway purposes.[1] This chapter is the history of numerous attempts to induce Congress to make such appropriations, all of which failed. It is instructive, however, to see what measures were proposed, and why they failed, and as such aid was given to roads and canals prior to the railway era, and again to railways after 1850, it is important to note progress and define periods.

Early Stock Subscriptions in Internal Improvements

In 1825 an act authorizing the subscription of stock in the Chesapeake & Ohio Canal Company was passed.[2] It directed the secretary of the treasury to subscribe for 1500 shares, and to pay for them from the dividends on the investment in United States Bank stock. The next year similar acts were passed in behalf of the Louisville & Portland Canal Company[3] and the Dismal Swamp Canal Company.[4] A further subscription was authorized for the Chesapeake & Ohio Company in 1828, and in 1829 the Chesapeake & Delaware Canal Company was likewise aided.[5] Between 1825 and 1830 the government sub-

[1] The general survey bill appropriation aided railways incidentally.
[2] *Laws*, VII, 406.
[3] *Ibid.*, p. 465.
[4] *Ibid.*, p. 478.
[5] *Laws*, VIII, 205.

scribed for the stock of these four canal companies a total of $1,293,500.[6]

The Movement for Stock Subscriptions in Railways

In view of the above facts, it is natural that the first railways looked for like aid from Congress and requested subscriptions to their stocks. As early as 1828 a petition of the Baltimore & Ohio was laid before Congress, but, though favorably reported upon, it was so late in the session that no bill was submitted.[7]

At the second session of the twentieth Congress, however, the petition was renewed.[8] The memorialists set forth that they were constructing a railroad with at least two sets of track from Baltimore to the Ohio river. Of the estimated cost of six or seven million dollars, Maryland and Baltimore had subscribed $1,000,000 and individuals had added $3,000,000. They were convinced that "so enlightened a body as the Congress of the United States would fully appreciate the vast importance of the undertaking," and consequently had made provision in the charter for a subscription by the government.

The committee on roads and canals, to which was referred this memorial, reported in favor of a subscription, but the bill did not reach a second reading.

At the first session of the twenty-first Congress another memorial was presented in the House.[9] Work had now been carried on for nearly a year and three miles of track had been laid, while a careful examination of the proposed route to the Ohio showed its feasibility. The advantages of the projected railway for the mail service were set forth. This memorial was referred to the committee on internal improvements and a very favorable report was submitted.[10] The committee viewed the undertaking as one of "highly national character," but doubt existing as to the relative merits of canals and railways,

[6] *Rep. of Com., 1830–31*, No. 77, pp. 35, 65.
[7] Reizenstein: *Econ. Hist. of the B. & O. R. R.*, in *J. H. U. Studies*, XV, 296–7.
[8] *Sen. Docs., 1828–29*, No. 73.
[9] *Rep. of Com., 1829–30*, Dec. 23, 1829, No. 23.
[10] Ibid., No. 211.

it advised that aid be given only as far as the Point of Rocks,[11] in order to test the relative merits of these rival means of transportation before making any further subscriptions. Accordingly a bill authorizing a subscription to the railway company's stock was reported, but its fate was sealed on May 26, 1830.[12] Though it was urged in favor of the bill that this railway was a great and patriotic undertaking, and that Maryland deserved encouragement because of her heavy expenditure in its behalf, the House refused to act upon it and a motion to consider the bill was laid upon the table never to be taken up.

While this adverse action was taking place in the House, a similar bill[13] was receiving like treatment in the Senate, where the subscription was considered in connection with the whole system of national internal improvement. It was in this discussion that a circulating fund to be invested in the stocks of various works was proposed, the bearing of the proposition on the case under consideration being that funds for the proposed subscription would be drawn from the sale of other stocks, one senator stating that if a transfer of stock held in the Chesapeake & Ohio Canal Company would answer he would make no objection. The vote was a close one, the bill being laid on the table by 21 yeas to 19 nays.

Nothing daunted by these successive failures, the railway company returned to the quest of a congressional subscription in 1832. In a memorial dated January 11, it is recited that the road is completed as far as Frederickstown, Md., a distance of 60 miles, and that the company is determined zealously to prosecute the work to its termination. Its capital of $4,000,000 is insufficient, however, and the memorialists respectfully solicit a subscription.[14] As usual, a bill was introduced, only to meet the same end as its predecessors. In debate upon this bill the advantages of railways over canals were stated and low freight rates by rail were cited. The Baltimore & Ohio's stock was quoted at very low figures as a result of injunctions obtained by the Chesapeake & Ohio Canal Company.[15]

[11] See above, p. 218 ff.
[12] *Cong. Debates*, VI, Pt. II, 1136.
[13] *Cong. Debates, 1829-36*, May 22, 1830, VI, p. 453.
[14] *Sen. Docs., 1831-32*, II, No. 63.
[15] See above, p. 219.

The bill being laid on the table, efforts were twice made to reconsider it, but were negatived by small majorities.

With the failure of this attempt, the railway seems to have realized the futility of trying to secure such aid from Congress under existing conditions.

The cause was next taken up in a resolution passed by the general assembly of Ohio.[16] That body bade its representatives in Congress use all means expedient to procure aid for the Baltimore & Ohio, on the ground that it was of great importance to the western states and to the whole union. At about this time, too, a mass meeting of the citizens of Uniontown, Pa., was held in favor of an appropriation for the Baltimore & Ohio railroad, and its proceedings appear as a congressional document.[17]

For nearly a decade from this period no open effort seems to have been made,—at least no memorial or bill for a subscription appears in congressional documents. A last movement in this direction appears in the Senate *Journal* for 1845–46,[18] where is recorded a resolution submitted by Mr. Johnson (Md.). Mr. Johnson proposed that the committee on military affairs inquire whether it was not expedient for the defence of the country to subscribe to its stock or otherwise aid the Baltimore & Ohio Railroad Company to complete its line to the Ohio river. No action was taken by the Senate.

These various efforts, direct and indirect, of the Baltimore & Ohio Railroad Company comprise the greater part of the history of proposals for congressional stock subscriptions in railways down to 1850. Other subscriptions that were mentioned between 1825 and that date may be briefly summarized:

1. 1829—Memorial and bill for subscription for 2,500 shares of stock in the S. C. Canal and Railroad Company. Bill got as far as first reading.[19]

2. 1830—Resolution to inquire into the expediency of a subscription to the Ohio Canal and Steubenville Railroad Company.[20]

---

[16] *Exec. Docs., 1835-36,* IV, No. 193.
[17] *Sen. Docs., 1835-36,* IV, No. 276.
[18] p. 243.
[19] *Sen. Docs., 1828-29,* No. 91. See *S. J., Sen. Bill* No. 92.
[20] *H. J.,* Mar. 29, 1830.

3. 1832—Memorial of Brunswick Railroad Company (Ga.) for $20,000 stock subscription; referred to committee on roads and canals; no action.[21]

4. 1835—Inquiry into expediency of stock subscription to the Charlestown & Ohio Railroad Company.[22]

5. 1837—Memorial of Falmouth & Alexandria Railroad Company (Va.) for a stock subscription; no action.[23]

Early Appropriations Donated to Internal Improvements

Between 1806 and 1825, inclusive, Congress made some twenty-one distinct appropriations for roads and canals.[24]

During this period a total amount of $463,120.00 was so appropriated, over one-half of this sum being expended on the construction and repair of the Cumberland Road and $25,000 going to extend the Carondolet canal.[25] In 1826, $20,000 was appropriated for ascertaining the best route for a canal from the Atlantic to the Gulf,[26] and from 1825 to 1828 nine acts were passed making appropriations for roads.

Proposals for Appropriations to be Donated to Railways

Such being the early history of congressional donations of money to works of internal improvement, surely the railway might expect similar assistance. But what are the facts? In 1833–34, Mr. Tipton presented two applications for government aid to proposed railways: one a petition of citizens of Indiana and Michigan praying for aid in constructing a railway between Lakes Erie and Michigan,[27] another a resolution of the citizens of LaGrange county, Indiana, in favor of an appropriation for the same object.[28] These applications brought no result.

---

[21] *S. J.*, Mar. 1, 1832.

[22] *H. J., 1835-36*, p. 173.

[23] *Rep. of Com.*, II, No. 238.

[24] *Laws*, IV, 11, 58, 356; VI, 113, 219, 266; and indices. The great majority of these appropriations were made for roads in the South.

[25] *Laws*, IV, 201. This was the first canal appropriation. Canal extended from Lake Ponchartraine to the Mississippi river.

[26] *Laws*, VII, 435.

[27] *S. J., 1833-34*, p. 104.

[28] *Ibid.*, p. 141. Railroad from Maumee Bay to Lake Michigan.

In 1836 the House resolved to inquire into the expediency of making an appropriation for the contemplated railway from Cincinnati, O., to Charleston, S. C., on condition that the railway company enter into a contract with the government for transporting the mails and public property.[29] No report upon the matter is found and no appropriation was made.

Three years later citizens of Eastern Florida sought to have an appropriation for a road between St. Augustine and Picolata applied to a railway over the same route to no avail,[30] while in 1840 the people of Detroit and vicinity urged Congress to appropriate $100,000 for the completion of a railway from Detroit to the northern boundary of Ohio in vain.[31] In this latter year, too, the Senate passed a resolution that its committee on military affairs be instructed to inquire into the expediency of a grant of money or land to the state of New York for a railway along the St. Lawrence between Lakes Ontario and Champlain.[32] The military advantages were the arguments made in favor of these last two proposals.

In 1844 an appropriation was asked for a canal or railway across the peninsula of Florida in order to remove the necessity of passing around the cape.[33] This work was to be done by the government largely for military purposes.

Proposals that Congress make advances on the two per cent. funds[34] might be treated here, but appear more logically in connection with land grants, inasmuch as such funds were derived from land sales.

Summary and Conclusion

As foreseen, the conclusions to be drawn from this chapter are largely negative. No appropriation for granting monetary aid to railways was made down to 1850. No bill, whether for a

[29] *H. J., 1835–36*, April 11, 1836.
[30] *H. J., 1838–39*, p. 286; see above, p. 239.
[31] *Sen. Docs., 1839–40*, VIII, No. 604.
[32] *S. J., 1839–40*, May 12, 1840.
[33] *Cong. Globe*, XIII, Pt. 1, 131; *Sen. Docs., 1843–44*, No. 62.
[34] e. g., *S. J., 1836–37*, p. 30.

stock subscription or a donation of money, passed either branch of Congress. Indeed, memorials and bills for such grants were relatively few and do not indicate any general movement for this sort of assistance by the government.

Some inferences of a more positive nature may be made, however. While the reasons for the failure of such proposals for monetary aid as were made in Congress are not stated in the documents, they are pretty clear in the light of previous chapters. Down to about 1830 several stock subscriptions were made and much money was donated to roads and canals; but at that time national internal improvements fell into disfavor in a majority of the sections of the country, and it was then that railways began seeking aid. Furthermore, railways were more unpopular than canals or highways. Then, too, in the earlier part of the period, when there was yet hope for an appropriation, doubt existed as to the superiority of the railway. These reasons, in great part, at least, account for the failure of the proposals noted above.

The movement in this phase of railway history, so far as one is indicated, seems to be this: Well down toward the close of the third decade donations of money predominated, which may well be accounted for by the fact that corporate or capitalistic activity was but little developed; after 1825 various subscriptions to the stock of canal companies indicate an increasing prominence of corporate activity, and the railway entering the field of transportation shortly endeavored to get monetary aid in the form of subscriptions to capital stock; between 1828 and 1837 a relatively large number of proposals for stock subscriptions in railway companies came before Congress, it being significant that the end of this movement coincides with the downfall of state activity and a growing tendency to regulate railways;[35] and between 1833 and 1840 there were scattered efforts to obtain donations of money which were of little importance, and serve to illustrate the way in which sectional interests lead men to favor what is generally opposed. The people to be benefited by the Charleston & Hamburg (S. C. Canal & Railroad Com-

[35] Above, p. 265.

pany) or Brunswick railways were ready enough to ask Congress for subscripions to their stock or donations of money, though living in the heart of those sections opposed to federal co-operation in such undertakings and being themselves supporters of states' right doctrines.

CHAPTER XI

IMPORT DUTIES AND RAILWAY IRON

It is not the aim of this chapter to add to the general history of duties on imports: the general conclusions of authorities on the tariff history of the United States will be accepted. No history of railways would be complete, however, without a discussion of duties and remissions of duties laid on the raw material of railways, and it is the purpose of the present chapter to treat fully the rise and fall of tariffs on railway iron during the first half of the nineteenth century.

Earlier Import Duties on Iron

The first tariff act, that of 1789, was a brief one, and though its wording indicates that it was passed for both revenue and protection, its rates were so low that it was practically a revenue measure. In general, questions of protection were not concerned, but in the case of certain of our "infant industries," such as hemp, cordage, glass, nails and iron manufactures, specific duties were laid, with a view to encouragement and protection.[1]

During the next twenty years as many as twenty acts dealing with tariff questions were passed, in which series the revenue idea was certainly predominant. Then came the embargo and the non-intercourse acts of 1807 and 1809, followed by the war of 1812, which events made a period of restriction that was equivalent to one of high protective tariff in shutting out foreign competition.

At the outset of the war duties on imports had been doubled, but in spite of this war tariff the peace of 1815 brought a flood

[1] Taussig, *Tariff History*, p. 15.

of imports that induced Congress to pass the "moderately protective" act of 1816. Under this act pig iron was subject to a 20 per cent. ad valorem duty and 45 cents a hundredweight was levied on hammered bar iron. The duty on rolled iron bars was considerably higher and "was the only one of the iron duties which gave distinct and vigorous protection."[2] In 1818, however, a special act placed higher duties on iron manufactures in general.

Following the hard times of 1819–23 a strong protection movement developed and in 1824 duties on iron were increased along with others. Four years later a further raise was made by the "tariff of abominations,"[3] and again the degree of protection afforded rolled iron was much greater than in the case of the hammered product.

Thus it is obvious that from the earliest tariff legislation there was a tendency to protect the iron industry, and after 1816 protection was distinctly the policy adopted toward this industry, the duty being raised in 1818, 1824 and 1828. Upon rolled iron imports especially heavy duties were laid.

Condition of the Iron Industry; Importance of Iron Imports to Railways

Just at this time of high tariff and growing duties on iron it was that railway construction in this country began. Clearly if these new undertakings must depend to any great extent on foreign supplies of iron this condition would hamper them. What, then, was the condition of our iron supply, both raw material and manufactures?

The distinction between rolled and hammered bar iron noted above suggests one factor to be reckoned with. England was in advance of the rest of the world in adopting the process of rolling iron. The rolled bars were inferior in quality, but they were so much more cheaply and rapidly made than those produced by hammering that their manufacture represented

[2] *Ibid.*, p. 51.

[3] May 19, 1828. *Statutes at Large, 20th Cong., 1st sess.*, ch. 55. Iron in bars or bolts not manufactured by rolling, 1 cent per pound; bar or bolt iron made by rolling, $37 a ton.

great progress. The United States, however, clung to the older process, and, ostensibly to shield the consumer from poor iron, placed relatively high duties on rolled iron.

This country, too, was very slow to adopt the use of coke instead of charcoal for smelting, while without such a change successful competition with coke-using producers was difficult if not impossible. Just as the existence of canals and highways retarded the introduction of the railway on the continent, so the abundance of forests in the United States for a long time impeded the introduction of coal in iron smelting.

For these reasons, with others, our iron output was relatively small,[4] and in spite of protective tariffs a considerable part of the supply was imported. This is especially true of rolled iron. Now, rolled iron bars form one of the great items of railway expenditure, and any restriction upon the supply would seriously affect the growth of railways. The supply of rails had to be drawn almost entirely from abroad; heavy tariff duties lay upon such imports; the railway was just beginning to grow—these are the factors. In 1828, the year after it was chartered, evidence occurs showing that the Baltimore & Ohio Railroad Company was endeavoring to secure a remission of duty on iron for railways.

At this date Mr. Smith (Md.) laid a document on the table which consisted of a number of letters from American iron manufacturers stating that they were unable to supply iron rails at a price which would enable them to compete with rails of English manufacture.[5] That of Thomas Ellicott, president of the Avalon Company is typical. In reply to the suggestion that "the Avalon Company are prepared to furnish rails suitably formed for the purposes of constructing the proposed road from Baltimore to the Ohio river," he stated that "they can-

[4] 1828 130,000 tons (pig iron)
1830 165,000 "
1832 200,000 "
1842 215,000 "
1850 564,755 "
"The furnaces were small down to 1838 * * * and producing two to four tons of iron a day."
Bolles' *Indus. Hist. of U. S.*, p. 202.

[5] *Sen. Docs.*, 1827-28, No. 192. Presented in connection with Senate bill. See below.

not furnish the iron upon as cheap terms as it can be imported, even if the present duty[6] be exacted," and drew the conclusion that free importation of iron for the specific object of railways should be granted. In answer to objections made by iron manufacturers, he argued that in any case they would remain in the same position held prior to the introduction of railways, while in all probability the growth of public improvements would increase domestic consumption. From the consumers' standpoint the retention of the duty would mean increasingly burdensome prices because of the relatively great demand for the small domestic supply which would follow the growth of railways. To the argument that money would have to be sent abroad to pay the wages of foreign labor,—and this argument seemed most important to him,—Mr. Ellicott replied that the construction of the railroad would mean the growth of a labor market in this country that would more than counterbalance such a loss. This would come about through reducing transportation expenses, which would make a surplus production profitable, and exports and imports and revenue from imports would be increased as a result.

To sum up, the situation in 1828 was this: on the one hand, iron manufactures were backward and could not furnish a cheap supply of rails, on the other hand, railways were beginning to grow and demanded such a supply; on the one hand, there was a protective duty on iron bars, on the other hand the railway was struggling for existence; there was need of protection, and there was need of importation. The letter just quoted presents the railways' side, while at the same time it indicates the opposition of iron manufactures.

The Movement for Free Railway Iron: 1828–1832

1. *The debates of 1827–28*

On April 23, 1828, a bill authorizing the Baltimore & Ohio Railroad Company to import iron for the construction of that work was taken up and debated in the Senate.[7] This bill, which included machinery, provided that previous to any such im-

[6] $37 a ton.

[7] *Cong. Debates, 1827-28,* IV, Pt. 1, 678, 692, passim.

portation the president of the railway company should file a copy of the order with the collector of the port. Moreover, he was to swear that the iron or machinery was imported for the sole use of his railway and that it would not be used for any other purpose. An amendment to the effect that the same privileges be granted to all states and railway companies was agreed to, and a provision requiring that a bond be given to insure proper use of the iron was later added. Thus amended, this measure passed the Senate, but failed to become a law, being rejected by the House.

The main line of argument of those who supported the bill was this:[8] The railway possesses great utility for society and should be encouraged; our iron supply is inadequate, or at least we lack the skill to produce rails in sufficient quantity and quality; if the duty is not remitted the railways will recoup themselves by charging the public higher rates.

Those who opposed the measure argued as follows: It is unnecessary, for the country has abundant supplies of iron which will be utilized as soon as demand arises, when skill will also develop; it is unjust, for it discriminates against (a) iron manufactures as compared with railways, (b) importers of iron other than railway companies, (c) other materials imported for railway construction; it is unwise, as departing from the accepted policy of protection, and as being to all intents and purposes a grant of money to the companies benefited.

With regard to the ability of the United States to produce the necessary supply, opinions differed sharply, although a majority of the speakers held importations necessary. Mr. Barnard (Pa.) stoutly maintained that Pennsylvania alone produced some 21,800 tons of bar iron annually, and could supply the demand. It was estimated that from 12,000 to 15,000 tons (36 tons per mile) would be required for the Baltimore & Ohio.

The attitude of the southern senators is interesting in this connection, their position being well put in the words of Mr. Smith (S. C.) who "was," he said, "placed in a dilemma by this bill. He was forced to vote against his doctrines with regard to internal improvements, or to vote for the protection of do-

[8] The analysis and statement of the following arguments are the writer's.

mestic manufactures."[9] The South wanted neither protection nor federal internal improvements, and both Mr. Smith and Mr. Hayne (S. C.) voted for the bill on the avowed ground of taking the lesser of two evils.

The House added but little to the discussion.[10] Here emphasis was laid on the idea that the proposed remission was equivalent to a money grant, Mr. Buchanan (Pa.) stating that, "It proposes nothing less than to make an absolute donation of about $300,000." It was proposed that a bounty be put upon American iron equivalent in amount to the duty to be remitted. In behalf of the bill the argument was made that foreign iron did not set the price of iron in this country, and therefore domestic producers in the interior would not be injured by importations. This reasoning was based on the statement that two-thirds of Pennsylvania's iron output went westward, only about one-third going to Philadelphia. It is a fact that iron manufactures to the west of the Alleghenies were effectively protected, except as to articles of high specific value, by the difficulties of transportation prior to the railway era.

By this time the documents presented by Mr. Smith (Md.), containing among others the letter of the Avalon Iron Company's president, were available, and in the House much was made of the fact that ironmasters themselves admitted inability to meet the demand. Out of 90,000 tons annually consumed, said Mr. Drayton, only 30,000 tons were furnished by our own factories.

In general the discussion centered around the opposition of iron-producing regions, notably Pennsylvania, whose representatives led the attack, and whose citizens memorialized Congress against allowing the importation of iron free of duty.[11] It will be remembered that Pennsylvania was prominent in conducting internal improvements and had projected many railways, so it would seem that there were necessarily conflicting interests there and that her stand against the bill showed the great strength of the iron manufacturers and of the protection

[9] *Ibid.*, p. 694.
[10] See *Cong. Debates, 1827–28*, IV, Pt. II, 2503, 2733.
[11] *H. J., 1827–28*, p. 727. Citizens of Philadelphia.

idea in that state. The iron producers of Pennsylvania, however, might well have supplied her own demands.

2. *The drawback of 1830*

Though the bill for free railway iron failed to pass, the movement which it represented obtained concessions two years later in the tariff act of 1830. Section nine of that act provided for a duty of 25 per cent. ad valorem upon iron actually used for railway purposes, the duty paid on iron for that purpose being reduced to the 25 per cent. point by the payment of drawbacks.[12] Thus upon iron costing from $65 to $75 a ton this would mean a duty of from $16.25 to $18.75 a ton as compared with the duty of $37 a ton levied by the act of 1828.

3. *Free railway iron bill passes, 1832*

Previously to 1830 railway construction had hardly begun, and the demand for measures favoring such undertakings could not have attained great volume. By 1832, however, railways projected or under construction were quite numerous,[13] and the agitation which had failed in 1828, and obtained concessions in 1830, succeeded in 1832.[14] In that year Congress passed a "Railroad Iron Bill" which amended section nine of the tariff act of 1830 so as to allow a complete drawback on iron imported by states or incorporated companies for railways or inclined planes and actually put to that use, the iron to be laid down within three years after the time of importation. By this measure states and incorporated companies were exempted from the 25 per cent. ad valorem duty, and railway iron, under certain restrictions, was placed on the free list.

---

[12] *Cong. Debates, 1829-30*, VI, Pt. II, Appendix, p. xxxix. "From and after September 13, 1830, all iron manufactures for railroads shall be liable to the same rate of duty which is now imposed on bar or bolt iron, * * * . Provided, that when it shall be satisfactorily proved to the Secretary of the Treasury that any of the said iron imported for the purpose of being applied in the construction of any railroad or inclined plane by any State or incorporate company, has been actually and permanently laid on any such railroad or inclined plane; that then, and in that case, he may allow to such State or company, a drawback of the duty on such railroad iron so laid; or if the duty on the same shall have been actually paid, he may refund the same. Provided, such drawback, or repayment shall not reduce the duty * * * below 25 per cent. ad valorem, nor upon any less quantity than 20 tons."

[13] Above, p. 284.

[14] *Cong. Debates, 1831-32*, VIII, Pt. I, p. 990.

Conditions Between 1832 and 1841

The act of July 14, 1832, did not settle matters, however, and for three reasons: it restricted the number of those who might profit by it; it did not sufficiently define what kinds of iron should be included; and there were many petitions for relief, remissions, and extensions of the time set by the act.

In the first place, both the act of 1830,[15] and that of 1832 were so worded as to apply to "states or incorporated companies" only, and this limitation aroused some objections. In debate on the Senate bill for free iron, Mr. Dallas moved to amend it by striking out the words, "by any state or incorporated company," advocating that the provisions of the act be extended to individuals who might import iron for the use of a railroad.[16] His proposal was not favorably received, and shortly afterward a memorial was presented to Congress by sundry citizens of Pennsylvania to this effect: "The subject to which we wish to call your attention is the unequal burden we bear of the duty on railroad iron. The existing tariff gives the advantage to corporate bodies * * * while individuals are obliged to pay the whole amount of duty thereon."[17] The memorialists stated that "lateral" railroads, which were connecting links between main lines, were invariably built by individuals, and prayed that the deductions of duty on railroad iron be extended to them. The memorial was not successful, and the act remained unchanged in this regard. This fact explains the appearance in the Senate documents of 1836–37[18] of a memorial of certain individuals in St. Clair County, Illinois, praying for the remission of duty on railway iron to be imported for building a line from their coal mines to the Mississippi river.

In the second place, there was dissatisfaction and doubt as to the kinds of iron to be admitted free for railways. Congress was memorialized to remit accrued duties on locomotives that

[15] See above, p. 304, note.

[16] *Cong. Debates, 1831–32*, May 31, 1832 (*Sen.*), VIII, Pt. I, p. 990.

[17] *Sen. Doc., 1833–34*, I, No. 25. This memorial is found again as *Exec. Doc.*, No. 167, *1834–35*, IV.

[18] Vol. II, No. 105.

had been imported,[19] and a bill passed the House "to remit the duties upon locomotive steam engines."[20] This measure failed to pass the Senate. Various unsuccessful efforts were made also to have duties remitted on car wheels and iron parts of cars.[21] Finally, in October, 1836, an act explanatory of the act of July 14, 1832, was passed, according to which spikes, pins, and chains used in the construction of railways were not to be included in that description of iron which was released from the payment of duties. In a word, there was an attempt to include railway iron other than bar iron for rails,[22] which attempt failed.

In the third place, there was a long series of memorials and bills for the purpose of securing the remission or repayment of duties on importations prior to the acts of 1832 or 1836, or of securing an extension of time beyond the three year limit for laying down the rails; many of these bills were passed. These bills and memorials became extremely numerous about the time of the crisis of 1837. Two concrete cases may be given to illustrate.

In 1836 the committee on ways and means reported[23] on a memorial of the Lexington & Ohio Railroad Company for relief. The company had been chartered in 1830 by the legislature of Kentucky to construct a road from Lexington to the Ohio river near Louisville, and during the years 1832 and 1833 had imported iron from England, paying part of the duty, and giving bonds—according to law—for the remainder. The duty paid had been refunded to the company after the act of 1832, and bond was given to pay duty on all iron not laid down within three years. The company was unable to complete the road in that time, and so much iron remained unused that $1,984 became due on its bonds, which amount was paid under order of the Treasury department. The railway proceeded with its

[19] *S. J., 1832-33*, p. 158. Little Schuylkill Nav. R. R. & Coal Co.

[20] *H. J., 1833-34*, p. 254; *S. J., 1833-34*, p. 385, reported in Senate.

[21] *H. J., 1834-35*, pp. 99, 103, 108, 111; *S. J., 1834-35*, Feb. 12, 1835.

[22] That there was doubt as to the meaning of the act is shown by the passage of the explanatory act and by the fact that certain duties paid on spikes imported from England previous to the explanatory act were remitted in 1836, 1838, 1839. (See *Statutes at Large, 25th Cong.*, 2 sess., c. 257, and *Ibid.*, 3 sess., c. 6.)

[23] *Rep. of Com., 1835-36*, I, No. 152.

work and by 1836 had completed 28 miles of road. It then memorialized Congress asking that the $1,984 be refunded upon assurance that the iron was to be used for railway purposes, and the committee reported favorably. A bill (Ho. Bill No. 160) was introduced for the company's relief, which passed both houses and became a law on July 2, 1836.[24] This is a typical case of aid granted to a railway through extension of time for laying down imported rails, though here the amount involved was small.

One of several releases of duties paid prior to the explanatory act of 1836 was "an act to refund to the New Castle & Frenchtown Turnpike and Railroad Company certain duties paid by them," etc.,[25] according to which the secretary of the treasury was ordered to refund duties paid on shipments of spikes, clamps, and bolts made in 1836 and 1837 amounting to $2,003.85. The railway had to prove that the duty was not covered by a reduction in the price paid for the iron, and that the orders had been placed prior to the act of 1836. At about this time similar acts were passed in aid of the Baltimore & Susquehanna and the Philadelphia & Wilmington railway companies.[26]

Toward the close of the decade, 1832–41, however, signs of a growing opposition to remissions begin to appear. The House called for a statement of the amount of duties refunded since 1832,[27] and several bills for extending time to railroads failed to pass.[28] In 1840 a bill was introduced the object of which was to repeal the act of 1832,[29] and though it did not pass, it may be taken to indicate the turn of the tide.

---

[24] *H. J., 1835–36*, pp. 83, 1203.
[25] See *H. J., 1837–38*, p. 554. *Statutes at Large, 25th Cong.*, 2 sess., Index.
[26] *Statutes at Large, 25 Cong.*, 2 sess., c. 257, and *Ibid.*, 3 sess., c. 6.
[27] *H. J., 1838–39*, p. 284.
[28] *H. J., 1838–39*, pp. 428, 499, 725, etc.: *S. J., 1839–40*, pp. 53, 57, 127.
[29] *H. J.*, Feb. 4, 1840.

CHAPTER XII

IMPORT DUTIES AND RAILWAY IRON (Continued)

The Act of 1832 Repealed

On August 30, 1841, Mr. Buchanan (Pa.) offered an amendment to the revenue bill then before the Senate. The amendment was to the effect that the act of July 14, 1832, which had released from duty iron used in railway construction, be repealed, and that a duty of 20 per cent. ad valorem be imposed on such iron.[1]

In debate upon the amendment the statement was made that an English monopoly in iron manufactures had been fostered by allowing free importation, and that payments for railway iron had been the cause of a serious drain upon our supply of specie. On a par with this argument was the cry of favoritism toward corporations, Mr. Walker saying that "he would prefer to discriminate in favor of the planters and farmers, and not tax them by grants of exclusive privileges for the benefit of corporations,"—virtually half a million dollars a year was being granted to these wealthy companies.

Mr. Clay's reasons for supporting the amendment are very illuminating. In 1832, said he, when railway iron had been exempted from duty, the treasury had been full to overflowing; this was not now the case, and consequently a duty should be imposed. Henry Clay was not one to make a measure unpalatable and abrupt, however, and he suggested that companies which had already undertaken their work ought to have equal benefits of the present law. One cannot but be impressed with the fact that tariff policy is more often the result of industrial and financial conditions than their cause. The state of the

[1] *Cong. Globe*, 1841, X, 402.

nation's finances, the existence or absence of a surplus, has always colored the views of "statesmen" toward tariffs and internal improvements, and the influence of this element is to be seen in the congressional history of railways as recorded in the preceding pages[2] and will appear again. Here Mr. Clay gives clear evidence of the operation of this factor in at least one instance.

The chief resistance to the amendment came from the South, Mr. Calhoun and Mr. Cuthbert speaking strongly in favor of continuing free iron. In the South railway construction was not far advanced and consequently that section had not profited by the remission of duties to such an extent as had the northern States. Out of justice to the South, it was urged, "the law ought not yet to be repealed." Mr. Calhoun referred to the work of connecting the southern coasts, both Atlantic and Gulf, with the interior, upon which "depended in a great degree the commercial prosperity of the South," arguing that the work should not be burdened with taxes.

It is worthy of note that at least two of the speakers emphasized the idea that this exemption from duties was equivalent to a grant of money: Congress "had virtually made large appropriations for internal improvements" by the act of 1832.

As a result of the debate thus briefly recorded the amendment was so modified as to postpone the repeal until March 3, 1843, and thus modified it became law, being approved September 11, 1841.[3]

The Tariff Act of 1842

The last general tariff act mentioned above was that of 1828,[4] which considerably increased the duties on iron products. In 1833, however, so serious did the opposition of the South become,

[2] E. g., pp. 268, 364.

[3] *Acts of Congress, 1841,* c. 24, sec. 5: And be it further enacted, That the act entitled "An act to release from duty, iron prepared for, and actually laid on railways and inclined plains" * * * be * * * repealed, and there shall be * * * paid, on such iron hereafter imported, a duty of 20 per cent. ad valorem: Provided, That such repeal shall not operate * * * prior to the third day of March, 1843.

[4] Above, p. 299.

that a "compromise tariff" was enacted, according to which duties were to be reduced by degrees during the following decade till a general 20 per cent. ad valorem level was reached in 1842. The act of 1841, then, which put an end to the free importation of railway iron, obviously aimed to put such iron on the same footing with other imports, and hence the adoption of a 20 per cent. duty to go into effect after 1842. When the 20 per cent. level was finally reached, however, it was not maintained, and in the same year, 1842, a tariff act was passed by the Whig majority then in power which was avowedly protective.[5]

Section four of the act contains its provision concerning railway iron: "Provided, also, That iron imported prior to the third day of March, 1843, in bars or otherwise, for railways or inclined planes, shall be entitled to the benefit of the provisions of existing laws, exempting it from the payment of duty * * * and all such iron imported from and after the date aforesaid shall be subject to and pay the duty on rolled iron." By this act the low duty of 20 per cent. ad valorem was replaced by a specific duty of $25 per ton, to take effect in 1843.

Conditions Between 1843 and 1846: Rails versus Railways

A situation now ensued which was quite similar to that existing between 1828 and 1832: on the one hand, there were those interested in a rapidly spreading net of railways; on the other were the iron manufacturers, who maintained that they were able to meet any demand if only they were given protection. But in the condition of the iron industry there had recently come a change. In 1828 charcoal had been entirely depended upon for smelting, and the concomitant necessity for great forest areas and the cost of cutting and hauling timber had placed restrictions all but insuperable on the industry. By 1843, however, anthracite coal was fast coming into use, and in 1844 we find Mr. Bialack (Pa.) saying, "Previous to the successful experiments made with our anthracite coal as a fuel in the manufacture of iron, there was perhaps some reason for

[5] *Acts of Congress, 1841-42*, c. 270.

the course pursued (i. e. in remitting duties on railway iron). There is, however, no occasion for it hereafter."[6] A memorial presented by the New York & Maryland Iron and Coal Company tells of an expenditure of some $50,000 "with the view of entering extensively into the manufacture of iron for railroads" and a production of 10,000 tons per annum was promised, to equal the foreign product both in quality and in price.[7] In short, the statement that assurance of the permanence of the present law was all that was needed to bring about an extensive production in a very short time seems to have been well founded. Between 1842 and 1846 the output of pig iron nearly tripled.[8] By 1850 domestic producers were making some 44,000 tons of rails.[9]

In 1842 the iron industry was in a better condition by reason of the very expansion of the railway system. The two industries are always interdependent; they were particularly so in the earlier period. Then iron and coal deposits lacked accessibility and adequate transportation, while on the other hand railways lacked iron. The ironmasters urged that if only railways were built, they could supply the iron; the railway projectors said they needed iron to build their railways. In the later period mines had been rendered accessible and production cheapened by railway development, which fact tended to strengthen the position of iron-producers in this struggle for protection, and weaken that of the railways.

But with the nation's recovery from the panic of 1837, a fresh crop of railways sprang up. Railway construction became relatively rapid, and this made for free railway iron; for in spite of the improvements in manufacture and increased output, the demand outran the supply, prices rose, and rails were imported. The passage of the tariff act of 1842 was followed by a flood of memorials from various railways praying for relief from import duties. The Senate at its 1842–43 session passed two bills for the relief of railways.[10] but they failed in

[6] *Cong. Globe, 1843–44*, XII, Pt. II p. 383.

[7] *Ibid.*, XIII, Pt. I, p. 410.

[8] One effect of the tariff, however, was to give a new lease of life to abandoned charcoal furnaces which contributed to the output. After the low tariff of 1846 went into effect there was a decline in the output from 765,000 tons (1846) to 564,755 tons (1850).

[9] *Report of the Iron and Steel Association for 1876*, p. 165.

[10] *S. J., 1842–43*, pp. 121, 211.

the House. During the next session there were bills for the relief of states and railway companies in both Houses, and some fourteen memorials for such aid were presented in the Senate alone.[11] Memorials continued to come in during the 1844–45 session, several bills were introduced for remitting duties on railway iron in certain cases, and a bill granting relief to Michigan was passed by the Senate.[12] Clearly there were strong forces at work for the repeal of section four of the act of 1842 and for the free importation of railway iron.

Those who favored protective tariff and the iron interests were too strong, however, and the free railway iron advocates could not quite carry their measures. As in former cases, the South was prominent in her advocacy of free railway iron, and her speakers dwelt upon the high social utility of railways while stating that they were the least profitable ventures in the industrial world. If the remission of duties had amounted to making large donations to railways, the imposition of a duty would just as truly be a gift to the manufacturers of railway iron.[13]

Pennsylvania again led the Middle States in defending the tariff of 1842 and protecting the iron industry, discrimination, favoritism to railways, corporate avarice, and railway mail abuses forming the burden of their plea.[14] The upshot of the matter was that proposals for altering the tariff in behalf of railways failed in the Senate by a close vote, 21 to 20, and the consideration was postponed.[15]

The Railway Lobby

It is in the debates on this subject and during this period that the existence of an organized railway lobby appears. Re-

[11] *S. J.*, *1843–44*, p. 328 and index. *H. J.*, *1843–44*, pp. 327, 398 and index.

[12] *S. J.*, *1844–45*, p. 223. This fact is to be associated with state railway activity prior to 1837, which terminated shortly thereafter. The iron in question had been imported in the spring of 1839 and could not be laid within the three years because of financial difficulties. Having been laid in the fall of 1842, Congress was memorialized to remit duties and a favorable committee report was submitted. (*Rep. of Com.*, *1843–44*, II, No. 478.) For discussion see *Cong. Globe*, *1844–45*, XIV, 341.

[13] *Cong. Globe*, *1843–44*, XIII, Pt. I, p. 661.

[14] *Ibid.*, Appendix, 680.

[15] *Ibid.*, Appendix, p. 682.

ferences to "corporate avarice" abound and "corporation contests" are referred to as disturbing legislation. Mr. Buchanan said, "If you defeat them at this session, they (the railway companies) will be here in greater force than ever at the commencement of the next. Their importunity will never cease whilst the least hope of success shall remain, and we have learned from our experience that they have both the ability and the will to select shrewd and skillful agents to accomplish their purposes before Congress."[16] From their beginning, railway companies had memorialized Congress and sought to influence its procedure, but the growth of a lobby may be assigned to the period following the passage of the tariff act of 1842. In 1828 railways had scarcely begun, and until about 1842 there was no great general measure before Congress which affected railway interests as such, as did the tariff on railway iron.

The Tariff of 1846

The tariff act of 1842 had been passed by a Whig congress, the Whigs being supporters of the "American System" and tariff for protection. At the election of 1844 the Democrats came into power and two years later enacted a tariff that did away with all specific duties and greatly reduced ad valorem rates. By the act of 1846 the rate on all dutiable goods averaged about 26 per cent.; but the duty on bar iron of all kinds was higher than the average, being 30 per cent. ad valorem. This was higher also than the 25 per cent. rate of 1830 or the 20 per cent. rate in force just prior to the act of 1842, but as prices had fallen the amount paid was considerably less. Still, the tariff as a whole was a step toward freedom of trade, and the laying of a duty heavier than the average on railroad iron,—and that, too, in the face of the agitation for free iron for railways,—seems to indicate that the act was in no wise a concession to railway interests.

This act of 1846 was the first to abandon the old discrimination against rolled bar iron in favor of hammered bars,[17] the

[16] See *Cong. Globe, 1843-44*, XIII, appendix, p. 680 ff.

[17] See above, p. 299.

30 per cent. rate applying to both alike. This indicated an advance in methods of iron manufacture, for the real object in discriminating against rolled iron had been to protect our manufacturers who produced hammered bars alone.

Report on the Memphis Convention's Memorial

At about the time of the passage of the preceding act, a special committee to which had been referred the memorial of the Memphis convention brought in its report. The report, which was made by Mr. Calhoun (S. C.), stated that while the government could not in that case give aid of much value in the shape of land grants, it could give great aid by removing a burden imposed by its own acts, namely, the duty on iron. The committee stated itself to be of the opinion "that, on every principle of expediency and fairness, not to say justice, this burden ought to be wholly removed, or at least reduced to the rate which a strict regard to revenue principle would demand." As a basis for its conclusion, the committee introduced statistics which are of interest: the cost of iron being one of the heaviest items in the expense of constructing railways, the duty amounted to a charge of upwards of $2,000 per mile, or about one-sixth of the average aggregate cost per mile.

The predominant spirit in the report is that of the South, and its value lies in indicating that spirit and in the statistics presented, these probably corresponding to actual conditions.

1846–1850

After the tariff of 1846 nothing of importance as regards the history of duties on imports of railway iron took place in Congress. At the 1845–46 session, a bill to remit duties on railroad iron was introduced,[18] and at the following session a few bills, resolutions and memorials on the subject appear.[19] Acts were passed for the relief of the Red River Railroad Company,[20]

[18] *S. J., 1845–46*, pp. 298, 478, 481.
[19] *S. J., 1846–47*, p. 71; *H. J., 1846–47*, p. 124.
S. J., 1847–48, p. 142; *H. J., 1847–48*, p. 193.
[20] *H. J., 1847–48*, p. 1262.

the Central Railroad and Banking Company of Georgia,[21] and the Wilmington & Raleigh Railroad Company.[22]

Summary and Conclusion

The present chapter is the history of a struggle between the opposing interests of iron manufacturers and railway companies. In this particular struggle, general tariff policies, while not necessarily decisive were involved, and though protectionists might make an exception in behalf of railways, they tended to lay duties on railway iron on grounds of consistency and fairness. Where iron interests existed, as in Pennsylvania, this was doubly true. The free-traders of the South and of New England naturally leaned toward the free admission of railway iron, and this policy found favor in the West as railways expanded. The South's hostility to federal aid to internal improvement was entirely ineffectual as a counter force, illustrating the superior power of a policy backed by economic interest.

Early in its history, in 1830, the railway gained concessions, and in 1832 railway iron was placed on the free list. The domestic production was manifestly inadequate, and Congress had hardly given up the idea of aiding internal improvements. Hostility to railway corporations had not attained great growth, nor could the iron interests foresee how great a market they were losing. Above all, revenues were abundant. Between 1832 and 1842 railway iron —meaning iron for rails under the explanatory act of 1836,—came in duty free; but at the latter date a duty was laid, which was only modified by the act of 1846. In 1842 the national revenue was scant. Moreover, the iron industry was making rapid progress. State internal improvements had just yielded to corporate activity, and toward railway corporations a well developed hostility existed.

---

[21] *Ibid.*, p. 1122.
[22] *H. J., 1849–50*, p. 819.

The various tariff measures may be tabulated as follows:

TARIFFS ON BAR AND RAILWAY IRON: 1789-1850.[23]

	Bar Iron.	Railway Iron.	Pig Iron Production (gross tons.)
1789	5- 7½ per cent.		
1790	5- 7½ " "		
1792	10 " "		
1794			
1804	$0.01 a lb.		
1812	.02 a lb.		
1816	.45-2.50 a cwt.		
1824	.90-3.36 "		
1828	1.12-3.92 "	$37 a ton	136,000
1830	" " "	25 per cent.	165,000
1832	" " "	free	200,000
1833 to 1842	gradual fall to 20 per cent	free.	
1842	$17 to $56 a ton	free	215,000
1843	"	$25 a ton.	
1846	30 per cent.	30 per cent	765,000
1850			564,755

It should not be forgotten that the duties remitted were recognized as so much aid to railways. At the twenty-seventh congress a statement of the entire amount refunded between 1831 and 1841 was submitted:

Amount of duties on railroad iron refunded: 1831-1841[24]

1831	$6,847 90	
1832	336,709 19	
1833	202,210 70	
1834	421,010 34	
1835	529,529 79	
1836	234,194 74	
1837	407,517 05	
1838	910,011 66	
1839	672,376 86	
1840	688,510 97	
1841	391,264 64	(in part)
Total	$4,800,183 84	

[23] Adapted from Bolles' *Industrial History of U. S.*, pp. 200, 201.
[24] *Exec. Docs., 27 Cong.*, 2 sess., V, No. 265.

Between January 1832 and March 1843, $5,989,992[25] was the amount remitted in duties on railway iron. It is to be observed that the variation in amounts remitted each year may be taken as a rough indication of the growth of railway activity. Comparison with the chart of railway construction on page 365 will show a very close relationship between the two.

That remission of duties amounts to a donation of money would be easy to forget, especially where free trade principles were involved. In debate on the subject, however, opponents to free railway iron constantly reminded Congress of the fact, and it is to be emphasized that the matter of duties on imports of railway iron falls properly under the subject, aid to railways.

[25] *Cong. Globe., 1843-44*, XIII, Pt. II, Appendix, p. 680.

CHAPTER XIII

THE MAIL SERVICE AND AID TO RAILWAYS

The history of the mail service has been fairly well written,[1] and the mail service, as such, will not be treated in this chapter. The purpose is to analyze and state the various ways in which the desire of our government for securing the safe and speedy transportation of the mails has figured in the aggregate of aid granted to railways.

The mail service has been an important point of contact between the government and the railway from very early times; today the chief instrument in that service is the railway, and about two per cent. of the aggregate gross earnings of the railways of the United States is received for transporting the nation's mail. In 1819 one of the grounds for Benjamin Dearborn's petition for aid in carrying out his invention was that it was well calculated for the conveyance of the mails;[2] one of the reasons for the survey bill of 1824 was the necessity for transporting the public mail;[3] and in 1825 the House resolved to inquire into the utility of railways "as a mode of conveyance for the mail in carriages."[4] In debate over the proposed stock subscription for the Baltimore & Ohio railroad,[5] in 1832, the great facility of railways for carrying the mail was an argument of those who favored the measure. In short, the mail service argument was used from the beginning.

---

[1] *Hist. of the Railway Mail Service*, in *Sen. Ex. Doc. 48 Congs.*, 2 sess., No. 40.
A Hist. of the Railway Mail Service, publ. by Columbian Corr. College, Washington, D. C., 1903.
Tunnell, G. G., *Railway Mail Service: A Historical Sketch.*
See above, pp. 238, 259, and references there indicated.

[2] Above, p. 186.

[3] Above, p. 276.

[4] Above, p. 190.

[5] Above, p. 291.

The material concerning the railway mail service to be gathered from congressional sources mainly falls under two heads: regulation and aid. The former subject has been treated in the chapter on the railway and society;[6] the latter will now be considered. In approaching it, two main kinds or classes of aid in connection with the mail service may be distinguished:

I. Special appropriations or land grants, considered as:
   1. Donations, but attended by provisions for mail service, either
      a. Free, or at
      b. Reasonable rates.
   2. Loans or investments, to be repaid by mail concessions.

II. General contracts for mail service with purpose to aid.

I. Obviously the two sub-divisions of class I represent different attitudes or points of view concerning an act the immediate end and nature of which are essentially the same. In some cases it is difficult or impossible to determine under which division an aid falls, and it might well be that in the minds of some congressmen the donation idea predominated over any consideration of mail service, while others regarded the *quid pro quo* of the same grant as its most important content. Generally, however, the dominant idea is revealed in the nature of the act or the speeches for and against the measure. The preceding classification may be illustrated by specific cases.

In 1834 a bill was up in the Senate the object of which was to give the Baltimore and Ohio $320.000, and in return the mail was to be carried free forever.[7] Was this proposition regarded as a donation, or was it considered as an investment in that the appropriation would be compensated for? The utterances of speakers in debate on the measure make the answer sufficiently clear. Mr. Grundy (Tenn.) said he objected to the principle of "giving money to companies in the different states to make roads," and he referred to the fact that Congress had concluded at its preceding session not to levy taxes beyond those necessary for the government's support. Mr. Chambers

[6] Above, p. 259.
[7] *Cong. Debates, 1833-34*, X, Pt. II, 1732.

(Md.) urged that money had been given to canals, and hoped that the Senate "would, in its liberality, contribute to convert this into a useful improvement, for the use of individuals and the government, and give the sum proposed." He favored the bill on the ground that Congress had been in the practice of making appropriations for institutions of various kinds. The appropriation was opposed by Mr. Preston (S. C.) as being so large a grant that Maryland would be able to discharge her whole civil list by her income from the road.[8] In addition to these indications, the propositions that were made to cut down the period during which free mail service was to be performed to twenty or thirty years emphasized the gratuitous tendency of the bill. In a word, arguments both pro and con indicate that the proposed appropriation was regarded as a donation in which the mail service was more or less incidental. The bill passed the Senate, but was not taken up in the House.

A bill for granting right of way to the Ohio & Mississippi railroad being under consideration,[9] Mr. Cobb (Ga.) moved an amendment providing that the United States mails should be transported over the road at the lowest rates paid to other railways, which amendment was agreed to and the bill passed. Here a grant was made to which the provision for a reasonable rate was incidental.

As an instance in which aid was asked for in the spirit of a loan, to be in some measure, at least, returned in mail transportation, a memorial of the Selma & Tennessee Railroad Company may be presented. The company sought for a right of way and pre-emption, and in return proposed to furnish the government with transportation service, the memorial stating that the land would "be paid for hereafter, at the minimum price, by the transportation of the mails, munitions of war," etc.[10] When a bill granting right of way to the Tennessee and Coosa Railroad Company was under consideration it was agreed by a vote of 133 to 22 to so amend the grant as to require the road to transport the mails as required by the postmaster general, for which compensation was to be given

[8] Maryland received one-fifth of the passenger returns.
[9] *Cong. Globe*, 1837–38, p. 1030.
[10] *Sen. Docs.*, 1838–39, III, No. 184.

"not exceeding that paid for the average of stage service, for the time being, within the states of Tennessee and Alabama."[11]

In discussing a bill for the benefit of the Mt. Carmel & New Albany Railroad Company,[12] Mr. Smith (Ind.) showed that a provision in the bill for free carriage of the mail for twenty years would amount to a payment of about $1.06 per acre of land granted. This bill passed the Senate only, but it is sufficent, in connection with the foregoing, to denote the reality of the second case under the first head of the analysis. Here one ground of the Senate's action in aiding the railway was that the government would be compensated by free mail service.

II. Around the subject of general contracts for the mail service centers the greater part of the material concerning the phase of the congressional history of railways now under discussion. Before the railroad became a factor, a system of contracting for the transportation of the mails had been adopted which was based upon competitive bidding. Reliance was put upon the effectiveness of competition to secure reasonable rates, and during the stage coach régime the results seem to have proved satisfactory: the lowest bid meant in most cases a competitive rate. But when the railway came the system ceased to give satisfaction. Early in the thirties complaints begin to appear that competition was a failure in so far as it affected charges for mail transportation and that the government was paying exorbitant rates. This is but one of the many, many instances of the evils which result from the attempt to apply institutions adapted to one set of conditions to another and a different one.

As early as November, 1834, in a report to President Jackson, Postmaster General Barry stated that it was a subject worthy of inquiry whether measures might not then be taken to secure the transportation of the mail upon the rapidly multiplying railways of the country, and he expressed fear lest these corporations might make exorbitant demands "and prove eventually to be dangerous monopolies."[13]

[11] *H. J., 1844-45*, p. 430.
[12] *Cong. Globe, 1837-38* (*Sen.*), p. 434.
[13] *Sen. Docs., 23 Cong.*, 2 sess., No. 1.

President Jackson's message of the following year, 1835, suggested the expediency of fixing by law the rates to be paid for the conveyance of the mails, which rates should be graduated according to their average weight. In 1836 the postmaster general urged the necessity for amending the law relative to mail contracts with railways, and the President, in his message of December 5, invited the particular attention of Congress to that subject. The presumption of competition was folly and advertising for bids useless: the power of the postmaster general to pay high prices was practically unlimited: public interest would be furthered by prescribing some equitable basis for mail contracts.

In the same year the committee on post office and post roads made a report in favor of adopting a system of contracting for mail transportation in place of the old system of bids.[14] It was argued that then was the time to do so advantageously, as, on the one hand, the railway companies were in great need of money, and on the other, the national treasury was full to overflowing. The scheme proposed had for its essentials (1) long time contracts, (2) the consideration to be paid in advance, and (3) in case of perpetual charter the government to take a lien on the road as security.[15] Accordingly a bill to authorize contracts for carrying mail upon railroads was introduced, the main provisions of which were along the lines laid down in the committee's report. The postmaster general was to receive propositions from the railway and submit them to Congress, and the government was to have a lien upon the property of the railway to the extent of the amount of money paid. This bill failed to pass, however, and the evils remained unremedied.

An act of July 7, 1838, establishing certain post routes, aimed at improvement, but was too faulty to achieve much. It provided that the postmaster general should have the mail transported on railways, provided he could get it done for not more than twenty-five per cent. over what "similar transportation would cost in post coaches." The great difficulty

[14] *Sen. Docs.*, 1835–36, IV, No. 291.

[15] See above, p. 254.

lay in determining what was similar transportation, and this part of the act gave little satisfaction.

Within a year further legislation was deemed necessary, and it was enacted that under the act of 1838 no more than $300 per mile per annum should be allowed for the conveyance of one or more daily mails.[16] In other words, the great weakness of the previous law was remedied by establishing a definite maximum rate.

Finally, in 1845, the necessities of the situation, largely due to the expansion of the postal service, led to the passage of "an act to reduce the rates of postage, to limit the use and correct the abuse of the franking privilege, and for the prevention of frauds on the revenues of the Post Office Department."[17] Section 19 of the act provided for a classification of mail routes on the basis of the size of the mail and the importance and speed of the service. And it was made lawful for the postmaster general to contract with any railway company for carrying the mail either with or without advertising, providing that not more than the $300 allowed by the law of 1839 be paid to railways of the first class, nor more than $100 or $50 to second and third class lines respectively.

This brief account of the subject of mail contracts is presented partly because of its intrinsic importance to a congressional history of railways, but chiefly because of its relation to government aid, for it leads up to the second head of the analysis at the beginning of this chapter.—"General contracts for mail service with purpose to aid."

About the time of the beginning of the agitation for reform in mail contracts, a motion was considered in the Senate to the effect that its committee on roads and canals inquire into the expediency of aiding railways by making payment in advance on contracts with them for carrying the mails.[18] This motion was laid on the table, but it was only one of several proposals for aid after a similar manner. At the same session the proceedings of a mass meeting of the citizens of Uniontown, Pennsylvania, were presented, and among them was one which

[16] *Acts of Cong.*, 25 Cong., 3 sess., C. 4.
[17] *Ibid.*, 28 Cong., 2 sess., c. 43.
[18] *S. J., 1835–36*, p. 53.

stated their belief that the government ought to adopt a general system by making contracts with the railway companies for transporting the mails, troops, etc., free of charge "in consideration of a stipulated sum to be paid as the work progresses."[19] The idea was that the government would thus assist in constructing railways by satisfying in advance its side of a contractual obligation, as it were,—free mail service to be rendered by the finished railway in return.

A similar idea was contained in the report made by the committee on post office and post roads in 1836,[20] its chief suggestion being long-time mail contracts with the consideration paid in advance. The donation idea pervades the report, for the advantages of railways are set forth at some length, and their necessitous condition is contrasted with the over-flowing treasury of the time. In the debate over the bill that was then introduced, too, it is evident that the proposed system of contracts had aid to railways as one end. Indeed, Mr. Buchanan (Pa.) asked whether the bill did not provide for a system of internal improvement, and objected to taking money out of the public treasury to give to railway companies.[21] Mr. Clay had little doubt that the measure would revive the system of internal improvement.

In 1841 Postmaster General Wickliffe reported that it was a good time to secure the perpetual transportation of the mails free of charge by the advancement of a sum in gross to such companies as were willing to enter into a contract.[22] The railways were laboring under financial embarrassments which the aid of the general government given in this way would effectually remove.

During 1844–45 a bill was up which proposed allowing payments on mail contracts to railways under course of construction;[23] and at its 1847–48 session the House resolved to

[19] *Sen. Docs., 1835-36*, IV, No. 276.

[20] Above, p. 322.

[21] *Cong. Globe, 1835-36*, III, 372.

[22] *Ex. Docs., 1841-42*, I, 438. It was suggested that a sum sufficient to yield at 5 per cent. an interest equal to the amount then paid for mail transportation would be the proper amount.

[23] *Cong. Globe, 1844-45* (*Sen.*), p. 157.

inquire into the expediency of making twenty-year contracts for mail service, and of granting these contracts on such terms that a certain percentage of the compensation might be employed to complete unfinished portions of roads.[24]

Sufficient evidence has now been presented to indicate the existence of a considerable and long continued movement to grant aid to railways in connection with a system of contracting for mail service. Such proposals were generally connected with complaints of unsatisfactory service and high rates, and with provisions for regulating these conditions;[25] but the aid feature forms a distinct thread running from 1835 down through 1850. No case has been found, however, in which aid in this form was granted.

It seems that between 1840 and 1850 Congress rejected the idea of free mail service on the part of railways. It was quite common to suggest free transportation of the mails when aid in any form was proposed for a railway, but such suggestions uniformly failed to be carried out. It was often stipulated that rates on the mail should be reasonable, and the like, but transportation free of charge was definitely abandoned. For instance, when a bill to grant lands to Iowa was up, it was remarked that the provision merely that the mails be carried at a reasonable price which the measure contained was inadequate, and a motion was made to amend it by inserting "free of any charge."[26] The amendment was rejected. Similarly, in some cases attempts to amend grants so as to require mail transportation at the same rates as had prevailed on coaches were negatived,[27] and, as has appeared, all the

[24] *H. J., 1847–48*, p. 554. The southwestern chain of railways was especially referred to.

[25] The railways were not without their defenders, however. In 1842–43 Mr. Porter (Mich.) said, in debate on a bill to prevent private express mails: "Even if the government did pay these companies a high price for the service they performed, yet something was due to the States and to the individuals who had constructed these roads for the convenience of the public, on account of the greatness of the undertaking, and the vast and unprofitable outlay of money. He was unwilling to make those roads contribute to the payment of the taxes properly payable by other portions of the country, to sustain the Post Office Department." *Cong. Globe, 1842–43*, p. 246.

[26] *Cong. Globe, 1849–50*, p. 1240.

[27] e. g., *Cong. Globe, 1845–46*, p. 751 ff.; Mr. Niles.

agitation for a system of contracting with the railways was on the basis of liberal payment for their services. In this matter a distinction was drawn between the mails and troops, munitions of war, etc., the latter being often excepted from transportation charge.

CHAPTER XIV

LAND GRANTS: INTRODUCTORY AND EARLY HISTORY

The history of government aid to railways would be as Hamlet with Hamlet left out unless land grants were included in that history. Donations of land acres or proceeds of land sales have been the object of continuous agitation, and so important a part has this matter played, not only in railway history but in general history, that it is fitting to devote careful and detailed study to its development.

The word development is used with purpose. From the early years of the nineteenth century well down to our own time the problem of land grants to transportation agencies has existed, changing with circumstances, it is true, but, nevertheless having continuity. To treat the subject intelligently and exhaustively one must begin, not with grants or proposals for grants to railways, but with such donations to roads and canals—the works of "internal improvement" which, after some struggle, the railway supplanted.

As preliminary to a detailed history of congressional land grants to railways, some analysis of the problem should be made. The subject is a complex one, because it involves two distinct sets of doctrines: the attitude of Congress toward the disposition of the public domain was one factor; that toward government participation in internal improvements was another. While these factors are distinct, yet they react upon one another, and the attitude of a congressman toward internal improvements in general or railways in particular may modify his attitude toward bestowing public land, and vice versa. Furthermore, these two factors, land policies and internal improvement policies, might in their turn be analyzed and their relation to tariff, slavery, and states' rights poli-

cies be determined. Leaving this inquiry to a chapter on the philosophy of land grants, but bearing in mind the simple, preliminary analysis, let us at once take up the thread of events.

In the following brief account of early grants to canals and roads some latitude will be taken in presenting matters not immediately connected with land—this for the purpose of having in mind all sides of the situation which confronted the railway in 1830 or thereabouts.

Probably the first grant of land for "internal improvement" ever made by the Congress of the United States was that of 1796. In this year an act was passed, entitled "An act to authorize Ebenezer Zane to locate certain lands in the territory of the United States west of the river Ohio,"[1] according to which Zane received three tracts of land each one mile square. The lands were to be located "in such situations as shall best promote the utility of a road to be opened by him on the most eligible route between Wheeling and Limestone."

In the same year, 1796, Madison submitted a resolution to the House for a road extending north and south through the states.[2]

As the debt incurred during the Revolutionary War neared extinguishment and Louisiana was purchased, Jefferson was instrumental in having a road made from Washington to New Orleans; and, in 1806, under the same administration, the government took up a work of internal improvement in the Cumberland Road.

The period 1806–17 was one of projects for great systems of national internal improvement. In 1808 Gallatin presented his famous report advocating national aid to roads on economic as well as political grounds. Some premonition of the relation of the tariff to internal improvement appears in this report, as Gallatin argued that the expense of constructing roads could be defrayed from import duties, while decreased cost of transportation would more than counterbalance the effect of a tariff in raising prices. The carrying out

[1] *Laws of the U. S.*, II, 533. Limestone, Ky.

[2] Throughout this brief account of early developments, *Rep. of Com. 1830-31*, (21 Cong., 2 sess.) No. 77 has been of service.

of Gallatin's scheme was interrupted by the War of 1812—though even in 1814 it was discussed—but during 1816 and 1817 the great growth of nationalism which had taken place meanwhile gave rise to renewed projects. President Madison in his 1816 message urged that the constitution be so amended as to clearly vest in Congress power to "effectuate" a comprehensive system of roads and canals.[3]

In 1817 a bill was passed by Congress the object of which was to set apart the bonus paid by the Second National Bank together with the annual profits on government stock in it as an internal improvement fund. This "Bonus Bill" was vetoed by Madison on constitutional grounds and failed to get the necessary two-thirds majority. The President's words were, "I am constrained, by the insuperable difficulty I feel in reconciling the bill with the Constitution of the United States."[4] The failure of this bill somewhat checked the movement for a system of government aid to internal improvements.

In 1817, Monroe's first message stated his opinion that Congress could not constitutionally undertake internal improvements, but the committee to which the message was referred reported "in direct contradiction of the opinion of the President" and the House passed a resolution that Congress had power to appropriate for constructing canals, roads, etc. By a very close vote it was decided, however, that Congress did not have power to construct even post and military roads, nor canals for military purposes. Thus "a practical distinction was taken between the right to originate by national authority and the right simply to appropriate in the aid of State construction."[5] Much of the long discussion during 1818–19 centered around the distinction between expediency and constitutionality.

At this time Calhoun reported in favor of a national system of internal improvements along Gallatin's lines on military grounds. Calhoun seems to have considered the constitutional feature of slight consequence.

Between 1818 and 1827 there were many appropriations[6] for

[3] *H. J., 1816–17*, p. 14.
[4] *H. J., 1816–17*, p. 535.
[5] Schouler, *U. S. History*, III, 249.
[6] See above in chapter on appropriations.

the Cumberland Road and other acts giving aid. Taking up those which deal with land, we find that in 1820 a strip eighty feet wide was reserved for continuing the Cumberland Road;[7] and two years later ninety feet of land on each side of its route were granted to Illinois and Indiana for a canal, the sections through which it passed being reserved for future sale by the government.[8] The increase expected in public land values figured in both cases, and the ground for the extension of the Cumberland Road was definitely stated to be, "whereas by the continuation of the Cumberland road from Wheeling * * * the land of the United States may become more valuable."

The first considerable grant of land other than a right of way came in 1823, when an act was passed for laying out a road from the Miami of Lake Erie to the Western Reserve according to provisions of the treaty of Brownstown.[9] In order to enable the state of Ohio to open and construct this road, a strip of land 120 feet wide was given and in addition an amount equal to one mile on each side of and adjoining the road, it being provided that this land should not be sold for less than $1.25 per acre. This grant differs from later ones in that the policy of reserving alternate sections was not adopted.

Finally, in 1827, came the typical donation of alternate sections along the line of the Illinois & Michigan Canal, referred to below.[10] At the same time a similar grant was made to Indiana for the Wabash & Erie canal, and in 1828 Ohio was aided in extending the Miami canal.[11] Early in the next decade the Illinois grant was authorized for a railway, and at the same time railways began to supersede other means of transportation. The history of aid to canals and roads may be dropped at this time, when it merges into that of aid to railways.

In passing it should be observed that at about this very time (1827) such states as Illinois, Indiana, and Missouri were

[7] *Laws of the U. S.*, VI, 536.
[8] *Ibid.*, VII, 22.
[9] *Ibid.*, p. 118.
[10] pp. 334 and 360.
[11] *Laws of the U. S.*, VIII, 118.

complaining in Congress against the limitations upon their sovereignty because of the public lands within their borders concerning which they had neither the power of eminent domain nor of taxation. Moreover, and more immediately to our point, the internal improvement boom, which succeeded the completion of the Erie Canal, was on, and furnished an incentive for demanding a surrender of public lands. There may be seen in these facts, (1) some indication of the reaction against the centralistic tendencies of the time, and (2) the early beginning of the movement for donations of land to the states for settlers[12] and transportation agencies.

Meanwhile the general issue of the relation of the federal government to internal improvements had been actively raised in 1822 with a bill for the repair of the Cumberland Road, which, as stated above,[13] involved much broader questions of government control than lay on its surface. Monroe's veto message provoked further discussion, and in 1824 there were long debates in Congress. As a result the General Survey Bill[14] was passed in 1824, being so constructed as to get all for internal improvements that could be gained.

John Quincy Adams (1824–28) was extremely active and outspoken in favor of a government system of internal improvements, and he believed that one could be maintained from the proceeds of land sales. Adams was not successful in securing the adoption of his policy, however, and with Jackson's election the chance for it became slight. In 1830 Jackson sent in his celebrated veto of the Maysville road bill, and from about this time may be dated the downfall of the early movement for government participation in the construction or control of means of transportation.

The conclusions to be drawn from the foregoing resumé of the early history of internal improvements in Congress are fairly definite and significant. Down to nearly 1830 the policy of government participation had been in much favor, and many appropriations and some land grants had been made. At about

[12] As early as 1824, Benton introduced a bill for graduating land prices and granting pre-emption rights to settlers. See Lalor, *Cycl. of Pol. Sci.*, III, 471, on this point and on this paragraph in general.

[13] p. 254.

[14] Above, chap. IX.

the date mentioned this condition was altered, and the early railway companies found Congress less generous than had previously been the case. But this was not all. There was hostility to railways, as such, which acted directly against them and indirectly upon general internal improvements. And furthermore, partly because of their greater facility for private construction and operation, and partly because of industrial and political conditions, railways were generally undertaken by unaided private capital,[15] which development was no doubt aided by the natural conservatism of such states as had invested in canals.

But here it should be observed that the aid given to canals and roads prior to the railway era had been mostly in the form of appropriations of money, and it was aid in this form that chiefly fell into discredit or came to be prevailingly regarded as unconstitutional. Hence aid in some other form must be sought for, and the great later development came to be along the line of land grants. No record of a money appropriation directly bestowed upon a railway has been found, nor did Congress subscribe to the stock of this transportation agency, whereas vast quantities of land were soon to be granted.

The canal grants of 1827–28 have been cited, and these early donations were no mean ones: it may be added that at this session Congress made donations of land for internal improvement which actually exceeded proceeds of land sales for the same period, donations for all purposes aggregating 2,300,000 acres.[16]

[15] See above, p. 290.

[16] Lalor, *Cycl. of Pol. Sci.*, III, 472. Some idea of the extent to which water ways and roads profited by land grants down to 1841 may be gained from the following table adapted from one made out by the Commissioner of the General Land Office and to be found in *Rep. of Com., 1847–48*, No. 230, p. 15.

State.	Total acres.	Purpose and method.
Ohio	1,180,192	For canals, 1,099,419 acres by alt. sec's. " roads 80,773 "
Ind.	1,609,859	" canals 644,537 " by alt. sec's. " " 794,742 " " " " " (in part.) " roads 170,580
Ala.	400,000	" improving navigation of rivers.
Wisc. Ter.	487,715	" " " Grant river, 640 acres. " " " Fox and Wisc. riv. 315,875 acres.
		" Milw. & Rock Riv. canal, 171,200 acres.
Iowa	250,000	" improving Des Moines river, alt. sec's.

In writing a detailed history of grants of land to railways, it is logical and expedient to analyze the subject and classify the grants as follows:

I. Land acres:
   1. Right-of-way and materials.
   2. Pre-emption rights.
   3. Donations other than rights-of-way.

II. Proceeds of land sales:
   1. 2 per cent. funds, 5 per cent. funds, etc.

CHAPTER XV

LAND GRANTS: GRANTS OF RIGHT-OF-WAY THROUGH PUBLIC LANDS

Early Grants

After 1806 appropriations for roads and canals became quite numerous, as has appeared in an earlier chapter,[1] and such appropriations were sometimes accompanied by grants of a right-of-way through the public lands. In the West a road of any great extent could not well be built without passing over land held by the federal government, and this necessity put it within the power of Congress to obstruct or to aid such undertakings. The earlier grants of right-of-way were made to canals and roads, but they are not to be put in a class aside from those later made to railways; here, as in the case of other forms of aid, the whole series makes a continuous evolution, and it is well to begin at the beginning.

"An Act to authorize the State of Illinois to open a canal through the public lands, to connect the Illinois river with Lake Michigan,"[2] approved March 30, 1822, is typical of a donation of right-of-way pure and simple, that is, unaccompanied by an appropriation of money. By this act the state was authorized to survey a route, and ninety feet of land on each side of the line chosen were reserved to it. Moreover, material for construction might be taken from adjacent public lands. The act provided that the canal should always be a free public highway to the United States, and sections through which it passed were reserved for future sale by the government, the idea clearly being that their value would be enhanced by the construction of the canal.

[1] Above, Chap. X.

[2] *Laws of the U. S.*, VII, 22. A similar act was passed at the same time in behalf of the Wabash & Erie canal (Ind.)

General Grants to Railways Proposed: 1834–37

During the first few years of railway construction the necessity for obtaining right-of-way from Congress did not arise. When railways came to be projected for the South and West, however, this necessity confronted the undertakers, and as early as 1834 bills for granting right-of-way through public lands to railways begin to appear. Among the earliest propositions of this nature was a joint resolution granting right-of-way through public property at Harper's Ferry to the Winchester railroad.[3] This was a particular grant. But earlier in the same session a bill was introduced proposing a general grant of right-of-way to railroads,[4] which proposition may be taken to characterize the earlier attempts to secure these grants for railways. At the next session of Congress there were two bills—one before the House (No. 385) and one before the Senate (No. 147)—which proposed to authorize railways in general to pass through public lands, but both failed of passage.[5] In 1836 the House resolved that its committee on public lands be instructed to inquire into the expediency of authorizing incorporated railroad and canal companies to construct through United States lands,[6] and in the following year a Senate bill, (No. 145), proposed a general right-of-way to canal and railroad companies. Like its predecessors, this bill was not carried.

There were, then, several early propositions to pass a general law providing for right-of-way through public lands, all of which failed.

The First Right-of-Way Granted

In 1834 the Tallahassee Railroad Company of Florida presented a memorial in Congress praying permission to construct a railroad on the public lands in Florida and a grant of 100 yards on each side of the track.[7] The company also desired

[3] *H. J., 1833–34*, p. 576. In this case the occasion arose from the existence of a small piece of public land in the East.

[4] *H. J., 1833–34*, p. 425.

[5] *H. J.* and *S. J., 1834–35*, index of bills.

[6] *H. J.*, Mar. 3, 1836.

[7] *Sen. Docs., 1834–35*, II. No. 38.

100 acres at the terminus where the St. Mark's and Wacolla rivers joined. This memorial was granted, though the amount of land was greatly reduced, and on March 3, 1835, the act was approved—the first one to grant right-of-way over public lands to a railway.[8] By the act Congress bestowed an amount of land equal to thirty feet on each side of the line, and, for purposes of construction and repair, the company was to "have the privilege" of using timber from the public lands for one hundred yards on either side. Instead of the 100 acres asked for a terminal grant, 10 acres only were given. It was provided that the land and privileges granted should revert to the government unless the road were begun within five years and completed within ten.[9]

That the grant was small both absolutely and relatively to the amount asked for is noteworthy. Also its similarity to the act of 1822, by which a right-of-way was granted to Illinois for a canal, is apparent, the essential difference being the provision for free use by the government in the earlier grant.

Following this grant of a right-of-way to a Florida railway there came a series of propositions for grants to various roads, some of which entirely failed, some passed one House only, while some became laws. As instances of these last, the grants to the New Orleans & Nashville,[10] East Florida,[11] Atlantic & Gulf,[12] and Mobile & Ohio[13] railways may be cited. The grant to the New Orleans & Nashville appears to be the first to contain a provision requiring that a description of the route and surveys be filed at the general land office. These various acts differed somewhat in the privileges extended—amount of land, material, and time limits—but in general they form a series of similar grants made either to particular railways directly or to states for particular railways.

Toward the close of our period memorials and bills for rights-

---

[8] *U. S. Statutes at Large*, 23 Cong., 2 sess., c. 45.

[9] The foregoing rights and provisions were extended to two other railways, one from Pensacola to the Chatahoochee near Columbus, and another from the St. Johns to the Suwanee.

[10] *H. J., 1835-36*, p. 845, and index. Act passed July 2, 1836.

[11] *Ibid.*, p. 465, and *S. J., 1835-36*, p. 183, and index.

[12] *U. S. Statutes at Large*, 30 Cong., 2 sess., c. 116 (1849).

[13] *Ibid.*, c. 117.

of-way became very frequent, an unusually large number occurring at the 1850–51 session of Congress. This was the time when the railway net was being stretched between the Alleghenies and the Mississippi and growth was extremely rapid in the Middle West. Naturally the demand for right-of-way privileges was correspondingly great, and as a result Congress was driven to the enactment of a general law.[14]

A General Law Providing for Right-of-Way Through Public Lands: 1852

In order to bring this part of the congressional history of railways to a logical close, it will be necessary to overstep the dividing year of the century, for it was not until 1852 that a general law was finally passed. At about that time, however, the matter came up in both houses of Congress. In the Senate a bill was urged on the ground that it would supersede the necessity for legislating upon each of the many applications that individual companies were making.[15] It was stated that the Senate had "been in the habit of granting the right-of-way upon the application of individual companies whenever it has been asked," the inference being that granting rights-of-way had become a matter of course to be facilitated by some labor-saving device. Apparently on these grounds the bill passed the Senate. Meanwhile the House had passed a bill of its own, which had come to the Senate and been referred to the committee on public lands. That committee reported it to the Senate without amendment, and it was passed,[16] thus superseding the Senate bill and becoming law on August 4, 1852.

The act[17] provided for a right-of-way through public lands of 100 feet in width—the Senate bill had provided for 150 feet—to be granted to all rail and plank road or macadamized turnpike companies then chartered or to be chartered within ten

[14] At this time, too, the states were finding it necessary to pass general laws for the incorporation of railways, so great did the evils of requiring particular charters become as a result of corruption and lobbying, to say nothing of lack of uniformity in charters.

[15] *Cong. Globe, 1851–52*, XXIV, Pt. II, p. 1460.

[16] *Ibid.*, Pt. III, 1949.

[17] *Ibid.*, p. IX (*Acts passed*).

years. Such companies were given the right to take materials of earth, stone, or wood from adjacent public lands, where convenient, and sites for watering places, workshops, and depots were granted. No depot or watering place was to contain over one acre and such sites were not to be granted at intervals of less than ten miles. The act was wise in that it did not bind Congress for more than ten years, it being provided that roads must be begun within ten and completed within fifteen years from the time of its passage, in order to take advantage of the general grant.

With the enactment of this general law in 1852 the history of right-of-way grants to railways is closed for a time. It is a good place to stop and answer the question, What is the significance of such grants?

The Significance of Grants of Right-of-Way to Railways

In writing the history of land grants to railways, it has been customary to begin with 1850 and to neglect or entirely omit discussion of the rights-of-way through public land which were granted in earlier years. It has been stated that these grants of right-of-way were "in no sense land grants."[18] What has gone before, however, surely gives some indication of the fallacy of this general attitude, and it will take but a few words to make it clear that while the first large grant of land made directly for railway purposes occurred in 1850,[19] it was preceded by a series of land grants of no inconsiderable amount or importance.

In the first place, the relativity of things should be borne in mind. In the earlier stages of railway construction the grants of right-of-way and accompanying privileges were of relatively greater value than later. Moreover, as railway construction was pushed westward the lands involved had less value and at the same time the difficulties which confronted the railway were greater.

And again, these early grants of right-of-way served as

[18] Sanborn, *Cong. Grants of Land in Aid of Railways*, p. 19.

[19] But in 1833 the grants of certain alternate sections to canals in Illinois and Indiana were authorized for railways. See below, p. 360.

entering wedges for later grants of vast quantities of land. Rights-of-way came to be connected with other rights—rights to materials, depot lands, finally, pre-emption rights—till the way for grants of greater amounts of land was prepared. While the land grants of 1850 do mark the beginning of a period of large donations, it would be wrong to think of them as thunder from a clear sky.

Some of the very earliest rights-of-way included valuable privileges in the shape of materials and additional land. The grants of March 3, 1835,[20] gave the right to take materials of stone, earth, and wood from adjacent lands and included ten acres of land at the terminus of the railway. The grant to the Florida Peninsula Railroad & Steamboat Company a few years later (1838), in addition to an eighty foot right-of-way, bestowed materials within twenty rods of the road and sites for watering places, depots, and workshops.[21] The Atlantic & Gulf Railroad Company in 1849 received over and above its 150 feet of right-of-way the privilege of taking materials and lands for its depots, etc., not to exceed five acres for each ten miles of line. No further citation is necessary to prove the importance of these grants of right-of-way by reason of privileges included—both of land and products of land.[22]

Moreover, if further evidence is necessary, the fact that these grants were debated over and favored or opposed on grounds quite identical with those that are to figure in the case of the great donations other than right-of-way is significant in this connection. We find congressmen urging the enhanced value of public lands as an argument in favor of giving right-of-way, while others are opposing on the ground that in return for such grants the government was receiving nothing and losing a chance to make advantageous mail contracts.[23] "If the United States

[20] Above, p. 336 and note.

[21] *Acts of Cong., 1837–38*, c. 150, §§ 3, 4.

[22] It might be possible to treat material, timber, etc., as a distinct kind of grant. This would be suggested by a Senate resolution (*S. J., 1834–35*, p. 110) that the committee on roads and canals inquire into the expediency of authorizing several railway companies to use timber from public lands, and to have right-of-way thereon. The two are generally associated, however, and logic does not demand separate treatment.

[23] *Cong. Globe, 1836–37*, p. 115. Debate on bill to grant Atchafalaya Railroad & Banking Company a right-of-way through public lands.

gave this company lands by which the road was to be made, it might be right to ask something from the company in consideration of the same," for the gift was no mean one. The efforts made to obtain rights-of-way—with accompanying privileges—and the resistance to granting them are evidence of their value.

The attitude of one section of the country toward the public lands appears in the debate over a bill "to grant the right-of-way through the public lands for the construction of a line of railroad through the states of Ohio, Indiana and Illinois."[24] At that time Mr. Sweetser (O.) stated his conviction that to grant the right-of-way was a work of supererogation on the part of Congress. The right of eminent domain lay with the states, and the states had the right to make such grants without congressional action. The government only held the public lands in trust for the several states and for the federal congress to grant a right-of-way through them was a "fraud upon the credulity of the House," as it was based on the "pretense" that in this matter Congress had sovereign power. This idea will come up again in connection with donations of land other than right-of-way. Here it is sufficient to observe its bearing on the significance of right-of-way grants. It was largely inspired by hostility to relations between corporations and Congress and expresses the tendency of believers in states' rights doctrines.

A study of the provisions of the successive grants of right-of-way reveals some tendency toward increasing generosity on the part of Congress. To take the cases cited above: the Tallahassee railway received a strip sixty feet wide in 1835; the following year the New Orleans & Nashville eighty feet; eighty feet was the width granted to the Florida peninsula company in 1838; 150 feet to the Atlantic & Gulf in 1849; 100 feet by the general law of 1852; while the land grant of 1850 gave the Illinois Central 200 feet for right-of-way. At the same time a slight tendency to enlarge allowances for depots, etc., appears. This latter tendency was not so marked, however, and by no means warrants the implication in the statement that "such grants at first carried no extra donation of lands."[25] This in-

[24] *Cong. Globe*, 1850-51, XXIII, 127.

[25] Sanborn, *Railroad Land Grants*, p. 19.

crease in amount granted may be attributed partly to a recognition of the growing necessities of railways and partly to a tendency toward the greater land grants of the fifties.

Early in the history of right-of-way grants, memorials and bills began to seek for pre-emption rights to adjacent lands, coupling such proposals with right-of-way measures.[26] The significance of the agitation by railways for pre-emption rights will be treated in the next chapter.

[26] See *Cong. Globe, 1836-37*, p. 67; *Rep. of Com. 1838*, II, No. 385.

CHAPTER XVI

LAND GRANTS: PRE-EMPTION RIGHTS

The history of government aid to railways in so far as that aid took the form of grants of pre-emption rights is mostly comprised within one decade. The ten years lying between 1835 and 1846 form a period during which memorials and resolutions in Congress propose pre-emption rights, or sales of land on credit, with considerable frequency—we say propose, for it seems that no such grants were actually made. Such propositions quite generally accompanied right-of-way measures. Obviously either kind of grant could only apply over unsettled public lands, and it was not until the railway net had been somewhat extended that efforts were made to obtain them; then a fringe at the west and south became the region of agitation.

Propositions for granting pre-emption rights were most numerous in the earlier years of this decade. To give some idea of the extent of the interests concerned, the companies which sought to obtain the right to enter public lands on credit at the 1835–36 session of Congress may be named:[1] These were the Atchafalaya Railroad & Banking Company (La.), the Missouri & Mississippi Railroad Company, the Mad River & Lake Erie Railroad Company, the Illinois Central Railroad Company, and a railway from the Tennessee valley to Mobile Bay for which the legislature of Alabama memorialized Congress.[2] Bills for all these lines, with the exception of the Mad River & Lake Erie, were introduced and were favorably reported upon by the committee on public lands, to which they were referred, but in each case the measure failed to pass. In the case of the Tennessee-Mobile road, however, the committee went further

[1] See *H. J.* and *S. J.*, *1835–36*, index under "public lands" and "railroads".
[2] *Exec. Doc.*, *1835-36*, IV, No. 150; *Rep. of Com.*, *1835-36*, IV, No. 607.

than asked by the Alabama legislature and proposed a donation of alternate sections, so the bill did not fail on the merits of pre-emption. At no other session were there so many bills of this kind before Congress.*

The movement for granting pre-emption rights to railways,—if, indeed, it can be called a movement—was largely spent when the downfall of state activity in internal improvement came, and after 1840 it played a relatively insignificant part. It belongs to the period of railway activity which immediately preceded the crisis of 1837—a period during which government aid would have inured to states rather than corporations.

As giving some indication of the attitude toward the policy of allowing railways to enter public lands on credit which prevailed with a part of Congress at the close of this period, a report of the Senate committee on roads and canals concerning

* NOTE.—In 1840 a bill to grant the Mt. Carmel & New Albany railroad a pre-emption right failed by a small majority in the Senate. The vote by sections was as follows (*S. J.*, *1839-40*, p. 463):

	For.	Against.		For.	Against.
Maine	1	1	Ohio		2
New Hampshire		2	Indiana	2	
Vermont	*	*	Illinois	2	
Massachusetts	1	*	Michigan	1	*
Rhode Island	2				
Connecticut	1	*			
New England	5	3	"Northwest"	5	2
New York	1	1	Kentucky	*	*
Pennsylvania		2	Tennessee		2
Delaware	1	*	Alabama	1	*
New Jersey	*	1	Mississippi	1	*
Maryland	*	*	Louisiana	1	*
Middle Atlantic	2	4	South Cen.	3	2
Virginia	*	1	Missouri	1	1
North Carolina		2			
South Carolina		2		1	1
Georgia	*	1			
			Total	16	18
South Atlantic		6			

* Not voting.

The stronghold of the grant lay in New England and the Northwest, while the South Atlantic states were solid against it. The Middle Atlantic section was probably more evenly divided than the vote would indicate, a Maryland senator having favored pre-emption at an earlier test (see *Ibid.*, pp. 331, 442). Also a Kentucky senator seems to have favored the grant, thus increasing the majority in the South Central states.

a bill for the benefit of the Selma & Tennessee Railroad Company is of interest. The committee deemed it expedient where public lands would be enhanced in value by the location of a railway (or canal) "to grant to the companies by whose exertions and means those objects are effected a participation in the advantages resulting from them. Indeed, it appears just that the government should share with them the increased receipts from the lands growing out of their acts. To effect this object, *there appears no course better calculated, than to give the company a pre-emption right to a portion of the lands whose value will be increased* * * *."[3] This amounted to the formulation of a general principle, and was in the spirit of a general law granting pre-emption rights to all railways. Nothing came of it, however, and no pre-emption was given the Selma-Tennessee Company, the particular railway concerned.

Passing over an earlier proposal for a general pre-emption law,[4] we find, toward the end of the half-century, a general pre-emption bill running almost half the course that a bill must run in order to become an act of Congress. In 1849 this bill, entitled "An Act to grant the right-of-way across the public lands, and to dispose of said land in aid of the several States in the construction of railroads and canals," was passed by the Senate,[5] and was sent to the House where it was twice read. The second section of this measure, which "embraced the grand idea of the bill,"[6] provided that upon a report by the proper authorities that the railway route had been surveyed there should be reserved from sale as much of the public land along the line of the road as might be selected, so that it lay within ten miles thereof. This land was to be given to the state or states concerned, at a price not to exceed $1.25 per acre. The period of pre-emption or credit was ten years, at the end of which time, if payment was not made, the lands were to revert to the government.

The measure met with severe criticism in the House. It was

[3] *Sen. Docs., 1837-38*, V., No. 408. Italics are the writer's.

[4] *Cong. Globe, 1847-48*, XVIII, 60. Mr. Wentworth gave notice of motion for leave to introduce a bill to grant right-of-way and of pre-emption to all railroads which might be constructed over public lands. No action resulted.

[5] *Cong. Globe, 1848-48*, XX, 521.

[6] *Ibid.*, p. 532.

argued that under the bill the "new states"—in behalf of which the grant was avowedly proposed—would pre-empt large tracts of land, and then, being debtors to the federal government, would combine against it in Congress to rid themselves of their debt. Moreover, the prevalence of speculation in such states was referred to, the prediction being made that they would lay out numerous railways for purely speculative ends till all the lands were in their power. "Land would thus be taken immediately out of the market to aid in the construction of roads not needed, and which would never be completed."

No convincing reply was made to these objections. The statement that to lay out railways which were not to be completed was unbusinesslike—that no state legislature or company of individuals would expend money in surveying roads which they might know they could not make—did not appeal to the House. Certainly a congressman today would smile at so naive an assertion—an assertion which overlooks the spirit of the little maxim, "business is business."

Before the bill could be finally acted upon, it was returned to the Senate[7] at that body's request, and as it made its exit one representative expressed his desire "to give it a black eye before it goes."

This debate brings clearly to light the conflicting interests of the new and the old states—of the West and the East. One of the speakers referred to Ohio's change in attitude toward the disposition of public lands, a change which had taken place since the practical disappearance of such lands within her boundaries. By 1850 the center of population lay west of the Alleghenies, and the admission of Texas, Michigan, Wisconsin, and Iowa, together with the recent acquisition of Oregon and the Mexican Cession, gave cause for jealousy in the East. At this same session the territory of Minnesota was organized, and Utah and New Mexico followed during the next (1850), at which time, too, California was admitted as a state. The attitude of those states which had no public lands within their borders toward the granting of lands to aid enterprises in those which had, is an important factor in the phase of the congres-

[7] *Ibid.*, p. 542.

sional history of government aid to railways now under discussion.[8]

The Significance of the History of Pre-emption Rights

While, prior to 1850, no actual grant of pre-emption rights to a railway has been found, yet the history of efforts to obtain such grants is not without its importance. In the first place, pre-emption grants are in a sense land grants. Between donating lands scot-free and selling them at market value there are many steps—a grant of land which is accompanied by stipulations regarding mail service is less valuable to a railway than one without such provisions, and land for which a nominal or a small price must be paid is not "worth so much" as land which is donated. Clearly what is given is the value of the land and the railway company profits by the grant accordingly as the total value exceeds the expenses attached by a great or a small amount, i. e., it is interested in the net value. Now a pre-emption right running for some time may net the recipient great value, which value is as truly a land grant as though no expense had been undergone. The persistent efforts made by railway companies to obtain them, and the opposition of Congress, clearly prove the value that was attached to these grants. No history of the evolution of the land grant policy in relation to railways could be adequate without a treatment of this phase of it.

The debates over proposed grants of pre-emption rights to railways served to break the way and define the issues for similar debates over absolute donations which follow—debates which terminated in actual grants. The arguments in both cases are practically the same. In 1836 the House committee on public lands reported in favor of granting a pre-emption to the Missouri & Mississippi Railroad Company, on the ground that it would enhance the value of public lands and develop new resources of trade and population.[9] Shortly afterward the Senate committee on roads and canals advocated allowing the Alabama, Florida & Georgia Railroad Company to enter

[8] See below, p. 382 ff.

[9] *Rep. of Com.*, 1835-36, II, No. 382.

500,000 acres of public land on six years' credit, their reason being that the road would open up and make saleable lands that could not then be disposed of, values would be raised, and troops and military stores would receive free transportation.[10] The reasons are identical with those used in favoring absolute donations, and in the case of the Illinois Central similar arguments were advanced in favor both of a pre-emption right and of the donation which later was granted.

The argument for a pre-emption was stronger, however, in that it came more nearly to giving the railway what it added to land values by its existence. In theory it was to pay the government price and would profit by the grant to the extent that the adjacent lands were enhanced in value,[11] by increasing their accessibility. Where such increase in accessibility is solely due to railway construction, it is as true today as it was then that accordingly as railway projectors run risks and exercise foresight they should be recompensed and rewarded. The difficulty lies in estimating the limitations suggested in this statement.

Pre-emption occupied a sort of middle ground between right-of-way and donations of land other than right-of-way. Within the two years 1838–39 we find a pre-emption bill being changed to one for a right-of-way in order to obtain passage, and a donation bill being changed to one for pre-emption with the same end in view. It was something more than a right-of-way and something less than an absolute donation.

The whole story of pre-emption rights as a factor in aid to railways may be summed up thus: during the period when pre-emptions were most proposed (1835–46) no donation of lands other than those necessary for right-of-way, etc. could well have passed Congress—largely because of the prevailing political doctrine concerning public lands; and when, about 1850, the increasing influence of the West made land grants other than right-of-way possible, the whole loaf, rather than something less—say three-quarters—was taken, and absolute donations were made.

---

[10] *Sen. Docs., 1837-38*, IV, No. 294.

[11] See above p. 344, and *Sen. Docs., 1843-44*, II, No. 12.

CHAPTER XVII

LAND GRANTS: GRANTS OF CERTAIN PERCENTAGES OF PROCEEDS OF LAND SALES

Grants of the proceeds of land sales were practically and ultimately grants of land,[1] but, inasmuch as such grants were drawn from special funds established by agreement with new states upon their admission, they were formally so distinct as to warrant a separate treatment. These grants were drawn from funds already in existence; they involved no transfers of land ownership to railway companies; furthermore, the funds from which they were drawn had been established for the express purpose of internal improvements. Thus fewer obstacles were presented to the passage through Congress of aid in this form than existed in the case of a grant of land acres, and among the earliest grants for internal improvements in general and later for railways in particular were those of certain percentages of the net proceeds of the sales of public lands.

Early Grants for Roads and Canals: 1802–1820

The parent grant of this description was that made to Ohio in 1802. The act authorizing the admission of Ohio, passed on April 30 of that year, provided that the twentieth part—or 5 per cent. of the net proceeds of the sale of public lands lying in the state should be applied to making roads from the coast to the Ohio river.[2] By an act of March 3, 1803, however, 3 per cent. of these proceeds were granted for making roads

[1] In the *Rep. of Com., 1848–49*, No. 244, Mr. Breese made the statement that there was no difference in principle between a donation of land acres and the compacts with new states concerning the 5 per cent. funds. He was arguing for a donation for the Illinois Central.

[2] *Laws of the U. S.*, II, 175.

within the state,[3] thus leaving 2 per cent. for connecting Ohio with the East. It was from this "2 per cent. fund" that the expense of constructing the Cumberland Road was to be defrayed, that work being authorized in 1806.

Between 1803 and 1820 six acts providing for similar funds were passed, the states concerned being Louisiana, Indiana, Mississippi, Illinois, Alabama and Missouri.[4]

No Grants: 1820–1836; Some Proposals: States Seek Possession of 2 Per Cent. Funds

In 1822 the application of the 2 per cent. fund arising from the sale of land in the states of Indiana, Illinois, and Missouri to a road from Wheeling to the seat of government in Missouri was discussed;[5] but from that time to 1832 this form of aid seems to have occupied Congress but little.

In 1832 the House resolved that its committtee on internal improvements inquire into the expediency of appropriating 25 per cent. of the proceeds of the sales of public lands in Illinois for constructing a canal or railway from Lake Michigan to the Illinois river, "in lieu of the appropriation of land heretofore made for that purpose."[6] The grant was to apply annually until the work was completed. No further action was taken upon this exceedingly generous proposition.

In this same year, however, came a resolution which has more

[3] *Ibid.*, p. 226.

[4] This statement of laws may be found in the *Rep. of Com. 1848–49*, No. 244, p. 18.

Date.	Provisions.	Reference.
1811, February 20..	5 per cent of proc. land sales in La., to be applied making roads and levees in State	Laws, II, 643.
1816, April 19.....	5 per cent of proc. land sales in Ind., to be applied making roads and canals.....	Laws, III, 290.
1817, March 1.....	5 per cent of proc. land sales in Miss., to be applied making roads and canals.....	Laws, III, 349.
1818, April 18.....	Two-fifths of 5 per cent of proc. land sales in Ill., to be applied making roads.....	Laws, III, 430.
1819, March 2.....	5 per cent of proc. land sales in Ala., to be applied making internal improvements..	Laws, III, 491.
1820, March 6.....	5 per cent of proc. land sales in Mo., to be applied making roads and canals..	Laws, III, 547.

[5] *H. J., 1822–23*, p. 57.

[6] *H. J., 1831–32*, p. 262. The act appropriating land (1827) mentioned a canal only. It was authorized for a railway in 1833. See below, p. 360.

significance. It concerned granting to Mississippi the two-fifths of the 5 per cent. fund which had been reserved for the purpose of making roads leading to the state. It was resolved to inquire into the expediency of turning this 2 per cent. fund over to Mississippi to be expended *within* the limits of the state *under the direction of the legislature thereof*,[7] and although the resolution brought no immediate result, it is of some importance as evidence of a tendency on the part of certain states to demand control of their 2 per cent. funds. This would mean that the fund would be applied to improvements within the state rather than those leading to the state.

As further evidence of this tendency a memorial of the legislature of Alabama may be mentioned. This memorial, which was presented in the Senate February 2, 1835, prayed that the 2 per cent. fund arising from sales of public land in Alabama and set apart for constructing roads to that state might "be placed at the disposition of that state to make a railroad from the Tennessee valley to Mobile bay."[8] It was ordered that the memorial be laid on the table. A bill for this grant was introduced in the House, but failed.[9]

During the following year a bill to advance to Alabama and Mississippi each $1,000,000 on the 2 per cent. funds of these states was brought before the Senate, where it was ordered to the table by a vote of 27 to 16.[10]

Five Per Cent. of Certain Funds Granted to Mississippi and Alabama: 1836

In spite of the failure of the measures just recorded, some concession was made to the movement they represented in 1836. On July 4th of that year an act was passed by Congress which granted to the states of Mississippi and Alabama 5 per cent. of the net proceeds of the sales of certain lands within those states.[11] The lands concerned were those ceded by the Chick-

[7] *H. J., 1832-33*, p. 59. Writer's italics.
[8] *S. J., 1834-35*, p. 128.
[9] *H. J., 1834-35*, p. 306.
[10] *S. J., 1836-37*, pp. 30, 293. Vote came in 1837.
[11] *Statutes at Large*, V, 116 (c. 355).

asaw Indians in 1832, and the sum granted was to be applied to the same purposes specified in an act prior to the admission of the states, namely, internal improvements. While not specifically mentioned, the projected railways from Brandon to Montgomery and from Mobile to the Tennessee were doubtless among the works considered.

Debate Over Giving 2 Per Cent. Fund to Mississippi; Bill for Alabama Passed Senate: 1838

From 1836 to 1841 the subject of the 2 per cent. funds did not occupy Congress much, but in 1838 a debate took place on a Senate bill (No. 198) to authorize Mississippi to invest the entire amount of her 2 per cent. fund which had accrued since 1817 "in such railroads in the state as they (the state legislature) may think proper."[12] As but few discussions on this subject are recorded, it will be well to give some account of this debate.

It should be stated here that this bill embraced a provision that the fund might be temporarily invested in lands, subject to private sale or entry at fifty cents an acre.[13]

Mr. Trotter urged the adoption of the plan, because, (1) it is the right of the state; (2) the broad principle of justice demands it; and (3) it will merely equalize the lands granted to Mississippi with those given to the new states. The same speaker stated that the original reason for creating a 2 per cent. fund—that of making a road to the state—had long ceased to exist, and that the "contract" made with Congress to that end should also cease. He held that the principle involved in the bill had been frequently acquiesced in and was fully established, referring to the passage of similar measures in favor of Arkansas, Michigan, and Louisiana.

Mr. Clay (Ala.), after addressing the Senate in favor of the preceding views, offered an amendment under assurance from those who opposed the details of the bill that if an express grant of land was asked for, equal to that made to other states,

---

[12] *Cong. Globe*, 1837–38, p. 493.

[13] See below, p. 352.

it would be granted. Such a bill was reported by the committee on internal improvements,[14] but was not passed.

In December of this year a bill (No. 60) for relinquishing the 2 per cent. fund arising from sales of public land in Alabama was buried in the House; and the same event occurred in 1840.[15]

Two Per Cent. Funds Granted to Mississippi and Alabama: 1841

Finally "an act to appropriate the proceeds of the sales of the public lands, and to grant pre-emption rights," passed September 4, 1841, gave to Mississippi and Alabama these long sought funds, providing that 2 per cent. of the net proceeds of lands sold after December 1, 1817, be relinquished to the states for internal improvements.[17] Mississippi was to faithfully apply her grant upon a railway from Brandon eastward to the state line in the direction of Montgomery, Alabama.

The next year a resolution was agreed to by the Senate looking toward permitting Mississippi to appropriate $25,000 of the 2 per cent. fund thus granted for completing "the mail road[18] leading from Jackson to Brandon," and in 1843 this modification of the original grant was enacted.[19]

At this time, too, the Governor of Mississippi was authorized to enter any public lands in the state that were subject to private entry, using the 2 per cent. fund for that purpose, and to hold such land on behalf of the state for the trusts and purposes of the fund.[20]

Five Per Cent. to Iowa on Admission; Resolutions of Arkansas and Missouri: 1845–49

After the grant to Mississippi and Alabama in 1841 no further grant was made till Iowa was admitted, when, by act of

---

[14] See *S. J., 1837–38*, p. 543.
[15] *S. J., 1838–39*, p. 81. No debate reported.
[16] *S. J., 1839–40*, p. 239. No debate reported.
[17] *U. S. Statutes at Large*, V, 453; *Acts of Cong., 1841*, c. 163, ss. 16 and 17.
[18] *Railroad* in index.
[19] *Laws of U. S., 1842–43*, c. 530.
[20] *Ibid.* See above, p. 351.

March 3, 1845, 5 per cent. of the net proceeds of her land sales were given to that state, to be applied for the usual purposes.

In 1848 a bill was introduced to grant Missouri her 2 per cent. fund,[21] and in 1849 a resolution by the legislature of Arkansas was presented bearing on a similar matter. Arkansas asked that one-tenth of all public lands might be granted to the states in which they lay for education and internal improvement, and that the 5 per cent. fund accruing to herself might be paid in land.[22] This resolution brings out clearly the close relation existing between grants of percentages of proceeds of land sales and grants of land, and indicates furthermore, how closely associated they were in the minds of the people. With this petition that a 5 per cent. fund be transformed to a donation of lands it is natural to turn to that part of the congressional history of railways which deals with direct land grants, that is, grants of land acres.

---

[21] *H. J., 1847–48*, p. 322. It was not passed.

[22] *S. J., 1848–49*, p. 180. No further action reported.

CHAPTER XVIII

LAND GRANTS: DONATIONS OF LAND OTHER THAN RIGHTS-OF-WAY

The Mt. Carmel and New Albany

Perhaps the most natural and helpful way to approach this complex subject will be to take up at once a particular case. The history of the efforts made by those interested in the Mt. Carmel and New Albany Railroad[1] Company to obtain from Congress a donation of public lands extends over a decade of time, and will serve as an index to the status of the railway land grant issue in our national legislature throughout that period.

1837: Memorial. 1838: Right-of-way Bills Fail

This railway first appears in the records of Congress during 1837, at which time a memorial was presented by it asking a grant of land on certain conditions.[2] The memorial was referred to the committee on public lands, but was soon transferred to that on roads and canals (1838), and a bill to grant the right-of-way through public lands was reported. After reaching a second reading the bill was laid on the table and not taken up again. At about the same time a similar bill met a like fate in the House.[3]

1838: Donation Bill Passes Senate; Fails in House

On January 12, 1838, before the bill for a right-of-way had failed, the Senate resolved that its committee on post offices and

[1] This railway, which was finally constructed, extends from New Albany, Ind., a little below Louisville on the Ohio, to Mt. Carmel, Ill., a distance of about 120 miles. It thus lies almost entirely within the state of Indiana. By its means the low water often prevailing in the lower Ohio might be evaded.

[2] *S. J.*, *1837–38*, pp. 28, 97, 109, 382.

[3] *H. J.*, *1837–38*, p. 242.

post roads be instructed to inquire into the expediency of granting the railway all public land situated within five miles thereof—providing it agreed to carry the mail free of charge for a term of twenty years.[4] This committee was discharged before it could report, however, and the committee on roads and canals, which had reported the bill for right-of-way but ten days before was given control.[5] Accordingly, in February, a report was presented that was highly favorable to the railway. On the ground that the road was of vital interest to at least three states, that it would open up unavailable lands and enhance their value, that it would foster commerce and public intercourse, and serve postal and military ends, the grant was advocated. "But above all," the committee concluded, "is the importance which this object possesses, in common with other works of a similar nature and magnitude, in a political point of view, as forming one of the great arteries of the body politic; giving strength to its arm, knowledge to its head, union to its parts, and perpetuity to its existence."[6] The report was accompanied by a bill (Sen. No. 234) "for the benefit of the Mt. Carmel and New Albany Railroad Company."[7] A debate ensued in which the fact that the lands had been on the market a long time and the mail concession were urged, while some objection was made that this was a bargain with a corporation.[8] At this stage it was proposed to amend the bill so as to give a pre-emption right for six years, but the amendment was withdrawn. The bill, amended so as to grant "to the state of Indiana each alternate section * * * of the unappropriated public land which lies on both sides of the New Albany and Mt. Carmel Railroad,"[9] was finally reported, correctly engrossed, read a third time, and passed on July 4, 1838.[10] On the same day it was received by the House, and two days later that body showed its belief concerning the matter by ordering that the said bill be committed to the committee of the whole

[4] *S. J., 1837-38*, p. 135.
[5] *Ibid.*, p. 148.
[6] *Sen. Docs., 1837-38*, III, No. 203.
[7] *S. J., 1837-38*, p. 232.
[8] *Cong. Globe, 1837-38*, p. 434.
[9] *Ibid.* (*Sen.*), p. 450.
[10] *S. J., 1837-38*, p. 526.

House on the state of the Union, from which limbo it never emerged.[11]

1839: Donation Bill Amended to Pre-emption Passes Senate; Fails in House

The preceding events took place at the second session of the twenty-fifth Congress. At the third session the effort to secure a land grant was continued. After petitions from the citizens of New Albany[12] and of New Orleans[13] in behalf of the railway, a bill (Sen. No. 176) was introduced on January 7, 1839, granting one-half of the vacant and unsold lands six miles on each side of the road to the state of Indiana.[14] A favorable report from the committee on roads and canals accompanied it, which, in addition to the general line of argument of the previous report, laid emphasis upon the vast losses and delays to merchants and farmers occasioned by ice and low water in the Ohio river. This resulted in violent fluctuations in the New Orleans market and thousands of immigrants were delayed and put to expense. The great importance of the railway lay in the fact that it would form a "missing link" in the transportation chain from Louisville to St. Louis. The bill and report were followed not long after by a set of resolutions from the Indiana legislature to the effect that the senators and representatives of that state use their influence to secure a law "providing for the donation *or pre-emption* of lands for the Mt. Carmel and New Albany;"[15] and, indeed, the bill was amended so as to read "an act to grant the right of pre-emption to a quantity of land," and so amended it passed the Senate, February 23, 1839.[16] During the course of this bill in the Senate several memorials were presented in the House, but to no avail; the bill upon reaching the House was read a first and second time, and then suffered the same fate that had befallen its predecessor, the donation bill of 1838. It was dropped.[17]

[11] *H. J., 1837-38*, pp. 1241, 1256.
[12] *S. J., 1838-39*, p. 48.
[13] *Ibid.*, p. 97.
[14] *Ibid.*, p. 100.
[15] *Sen. Docs. 1838-39*, III. No. 166.
[16] *S. J., 1838-39*, pp. 269-70.
[17] *H. J., 1838-39*, pp. 636, 647, 725.

1840: Pre-emption Bill Fails in Senate; Donation Fails in House

During 1840 another effort was made to obtain a pre-emption. This time the bill even failed to pass the Senate, being indefinitely postponed on June 29 by a vote of 18 to 16.[18] Meanwhile a bill (No. 449) to grant a quantity of land to the state of Indiana for aiding the railway had been introduced in the House, accompanied by a favorable report of the committee on public lands. The report referred to numerous memorials and petitions and stated: "It is contrary to the dictates of sound policy longer to retain the whole of these lands in their present valueless condition, when, by a judicious appropriation of one-half immediate value will be imparted to the other."[19] As usual, the House refused to pass the bill.[20]

1840–41: Pre-emption Bill Fails

At the next session of the same Congress, the twenty-sixth, in December, 1840, the railway company presented a memorial in the Senate[21] and a pre-emption bill was introduced, but it failed.[22] Nothing on the subject occurred in the House.

1840–1848: No Agitation

Nothing concerning a donation of land to the Mt. Carmel and New Albany Railroad is to be found in congressional proceedings between 1840 and 1848.[23] There were thus about eight years during which this much agitated grant was not urged upon Congress.

1848: Donation Bill Fails in House

It is of considerable significance, then, to find this long slumbering issue raised again in 1848, when a bill was intro-

[18] *S. J., 1839–40*, p. 463; see above, p. 343.
[19] *Rep. of Com., 1839–40*, IV, No. 590.
[20] *H. J., 1839–40*, p. 1128.
[21] *S. J., 1840–41*, p. 25.
[22] *Ibid.*, p. 34.
[23] Feb. 1, 1841, a memorial of citizens of St. Louis presented.

duced in the House which proposed to grant to the state of Indiana both right-of-way and a donation of public lands for making a railway from New Albany to Mt. Carmel.[24] Its long rest does not appear to have changed the temper of the House, however, for after a first and second reading the bill was referred to the committee on public lands, and no further action taken.

The following year a resolution of the legislature of Illinois was presented in the Senate which instructed her senators and representatives to endeavor to secure "a liberal donation of the public lands contiguous to the routes of the Mt. Carmel & Alton, and Mt. Carmel & New Albany Railroads * * * ."[25] This is the last appearance of the road during the period under consideration.

Conclusions From the History of the Mt. Carmel & New Albany

Certain definite periods are at once apparent in the course of the efforts to obtain a grant of land for this railway. In the first place, the time when the donation was first proposed is of consequence, and it should be observed that the petition was presented in 1837, and the first bills—those for right-of-way and donation—were introduced during 1838. This serves to indicate what is undoubtedly true, that the speculation attending the crisis of 1837, was a factor in the case. In the second place, the agitation is concentrated in the years 1838, 1839, and 1840, at the end of which years it ceases, and of this fact also it may be said that it probably indicates a relation between the movement and conditions surrounding the crisis and the depression which followed. One of these conditions was the bursting of the state internal improvement bubble which was inflated about 1836 or 1837 only to be shattered in the next two or three years. In the third place, the break between 1840 and 1848 has its meaning: and lastly, the reappearance of the matter in the 1847–48 session is worthy of note.

[24] *H. J., 1847–48*, p. 960.

[25] *Sen. Misc., 1848–49*, I. No. 36. Other railways were mentioned.

Bearing these points in mind, let us consider the more general movement of affairs.

Early Proposals for Donations to Railways

Perhaps the first mention in the proceedings of Congress of the subject now under consideration is to be found in a communication to the Senate made February 8, 1830. The occasion was the application of Ohio to apply the proceeds of lands granted for the construction of canals to the construction of railroads, and upon this application the committee on public lands made a favorable report. The committee referred to recent improvements in railway construction, and concluded by deeming it "advisable to authorize the Legislature either to continue the Miami canal, or to apply the proceeds of the canal in the construction of a railroad * * * ."[26]

At about this same time occurred one of the earliest proposals for a donation of land to a railway company. On March 29, 1830, the House resolved that its committee on internal improvements inquire into the expediency of either authorizing a subscription on the part of the United States to the Ohio Canal and Steubenville Railway companies, "or of making a donation of public land to the said company, to aid it in the undertaking and completion of the useful and laudable purpose of its incorporation."[27] Though nothing came of this resolution, it is interesting that so early in the history of railway construction Congress should have been applied to for aid by this section of the country, and have considered the expediency of a donation of public lands to a railway company.

At the next session, the House resolved to inquire into the expediency of allowing Indiana to substitute a railway for a canal and for that purpose to transfer the proceeds of lands granted by Congress.[28]

The subject came up in both House and Senate during the following session: a memorial being presented in which the

[26] *Amer. State Papers,* V, *Pub. Lands.* VI, 138. The proceeds of lands granted for canals are meant. An act of 1833 granted an extension of time for beginning the canal, but does not refer to a railway. (Below, p. 360, note.)

[27] *H. J., 1829–30,* p. 475.

[28] *H. J., 1830–31,* p. 147.

Madison, Indianapolis & La Fayette Railroad Company prayed for a grant of a portion of the public lands;[29] and a bill was reported the object of which was to appropriate certain lands in Alabama for the purpose of improving the navigation of the Tennessee and Coosa rivers, and connecting their waters by canal or railroad.[30]

But, without more detail, it may be said that from 1830 on, no session of Congress—unless it be that of 1841–42—passed without some mention of donations of land to railways.

The First Donation of Land Authorized for a Railway

In 1833 Congress first authorized the use of a donation of public land for railway purposes. The act of March 2, 1833, did not make a new and original grant, but it authorized the use of land for a railway which had previously been given to a canal. In 1827 alternate sections along the line of the proposed Illinois & Michigan canal had been conferred upon the state of Illinois to aid in carrying on that work, and hence this act of 1833 was entitled, "An act to amend an act entitled 'An act to grant a quantity of land to the State of Illinois, for the purpose of aiding in opening a canal to connect the waters of Illinois River with those of Lake Michigan.' "[31] It provided that these lands might be "used and disposed of by said state for the purpose of making a rail road instead of a canal." The time was extended to five years, otherwise the same provisions were to apply. Although it is probable, in the light of other failures, that no such donation would have been made had the lands not already passed from the hands of Congress for a work of internal improvement, yet the authorization of the grant for railway purposes is of real significance. Clearly it marks the rise of railways to recognized importance, and again—and of more immediate interest—it indicates that at this time there was no great disfavor in Congress toward railways, as such. The fact that the grant was not utilized by the state has very

[29] *S. J.*, 1831–32, p. 168.

[30] *H. J.*, 1831–32, p. 128. The bill only reached a second reading.

[31] *Laws of U. S.*, VIII, 833 (c. 976). Section 2 allowed further time of five years to Ohio for commencing the Miami canal.

little bearing on its historical importance. It was made; that is the significant thing.

The Movement for Donations Grows in Volume: 1833–1840

The seven years immediately following 1833 were years of much agitation for donations of land to railways: there were, for instance, at least seven distinct lines under consideration during the 1833–34 session of Congress, and during 1834–35 there were nine. Ohio, Indiana, Michigan, Illinois, Tennessee, Missouri, Louisiana, Alabama, Georgia, and Florida were the states concerned. Roughly speaking, this period of agitation came to an end about 1840 or 1841, and the significance of the fact has already been touched upon in discussing the Mt. Carmel & New Albany Company's attempt to obtain a donation of land in the later years. It may be said that this end came with the pre-emption act of 1841.

The Pre-emption Act of 1841

In 1841 "an act to appropriate the proceeds of the sales of the public lands, and to grant pre-emption rights"[32] provided that after December 31, 1841, ten per cent. of the net proceeds of public land sales should be paid to Ohio, Indiana, Illinois, Alabama, Missouri, Mississippi, Louisiana, Arkansas, and Michigan.[33] In addition to this distribution of the proceeds of land sales each of the preceding states was granted 500,000 acres specifically for internal improvements, grants previously received for such purposes to be deducted, and a similar grant to new states on admission was provided for.[34] The funds received by the states for these lands were to be "faithfully applied to objects of internal improvement * * * , namely: roads, railways, bridges, canals, and improvement of water-courses, and draining swamps."[35]

---

[32] *U. S. Statutes at Large*, V, 453. See sections 1, 8, 9, 16 and 17.

[33] In addition to percentages granted on admission.

[34] Under this provision Ohio and Indiana received no land as their grants were already more than twice that amount. *Rep. of Com., 1847-48*, No. 230, p. 15.

[35] Such improvements were to be free to the U. S. for mails, munitions and troops.

Other sections of this act provided that part of the net proceeds of lands sold in Mississippi and Alabama should be applied to certain specified lines of internal improvement in those states,[36] and in the case of Mississippi a railroad was the specified means.

This act, then, has a direct bearing upon the history of railway land grants, for it provides for large donations of land for works of internal improvement, among which the railway was specifically mentioned.

A Break in the Movement: 1840–1845

After the act of 1841 there was almost no mention of land donations to railways in the proceedings of Congress for about four years. Beginning with the 1841–42 session, for which nothing has been found, and down through the 1844–45 session, when but two such measures were presented, the subject seems to have attracted little attention.[37]

The Movement Revives and Increases: 1845–1850

By the middle of the decade, however, the railway land grant issue sprang up with new life. At the 1845–46 session there were two long debates in the Senate—one over a grant of alternate sections in aid of railways undertaken by Michigan;[38] another concerning a bill to aid Mississippi in building a railway from Jackson eastward to the Alabama boundry[39]—and in these debates the subject was thoroughly threshed out. During the 1847–48 session a bill which proposed a land grant for the Mobile & Ohio got so far as to pass the Senate, but failed in the House by a vote of 102 to 80.[40] Meanwhile the number of

[36] Above, p. 350.

[37] 1841–42: Nothing.
1842–43: Resolution to inquire into the expediency of granting 3 or 4 townships to the LaGrange & Memphis railroad (*H. J., 1842-3*, p. 347).
1843–44: Memorial, report, and bill for Northern Cross railroad of Illinois (*H. J., 1843-44*, p. 872; *Sen. Docs., 1843-44*, No. 83).
1844–45: Report asking right-of-way and donation for Tennessee & Coosa railroad (*H. J., 1844-45*, p. 132). Bill to grant Illinois land for Alton & Mt. Carmel, and Shawneetown railroads (*Ibid.*, p. 249, 265).

[38] *Cong. Globe, 1845-46*, p. 481.

[39] *Ibid.*, p. 751.

[40] *H. J., 1847-48*, pp. 1203, 1238–42.

proposals for donations increased until during 1848–49 there were above ten different lines under consideration for land grants. Mr. Collamer (Vt.) in 1849 stated that shortly before the number of bills "was fifteen, to-wit: three for Michigan, three for Iowa, three for Illinois and Indiana, two for Illinois alone, two for Missouri, one for Mississippi, and one for Alabama. Two petitions, he believed, had been presented since the time he made this estimate."[41] By the 1849–50 session there were at least twenty-five bills for donating land to railways before Congress, and nine of these actually were passed by the Senate.[42]

The Donation to the Illinois Central: 1850

Finally, on Sept. 20, 1850, came the first of the great land grants—that to the Illinois Central, Mobile & Chicago,[43] and Mobile & Ohio railroads.[44] The grant marks the end of the period under discussion, and the beginning of one of many huge donations. By this act the states of Illinois, Mississippi, and Alabama received alternate sections of land—the even numbered ones—six sections back from the line of the roads on either side;[45] while the odd numbered sections within the limits of the grant were reserved to the government and were not to be sold at less than a double minimum price, i. e., $2.50 per

[41] *Cong. Globe, 1848–49.* p. 532.

[42] The grants were to be made to the states in behalf of the railways. They were as follows:

1. To Mississippi for railroad from Brandon to Montgomery (*S. J., 1849–50,* pp. 50, 424).
2. To Iowa for railroad from Dubuque to Keokuk (*Ibid.,* pp. 51, 409).
3. To Missouri for railroad from Hannibal to St. Joseph (*Ibid.*).
4. To Missouri for railroad from St. Louis to West Missouri (*Ibid.,* p. 619).
5. To Alabama for railroad from Mobile to Girard (*Ibid.,* p. 454).
6. To Alabama for railroad from Nashville to Chattanooga (*Ibid.,* p. 558).
7. To Indiana for railroad from Indianapolis to western boundary (*Ibid.,* p. 619).
8. To Wisconsin for railroad from Milwaukee to Mississippi river (*Ibid.,* p. 474).
9. For Tennessee, Mississippi & Alabama railroad Co., in Alabama (*Ibid.,* p. 614).

[43] This line was treated as one with the Illinois Central.

[44] *Statutes at Large.*

[45] 3,751,711 acres were patented or certified for the three lines down to June 30, 1880.

acre. In case lands within the grant were legally occupied by settlers at the time of location of the route, the company might indemnify itself by taking other lands within fifteen miles of its line. As in the case of an early alternate section grant for the Illinois & Michigan Canal,[46] the road was to be a public highway, to serve the United States government free of toll or other charges, and to transport the mails at rates to be fixed by Congress.

Conclusions Concerning the General Movement: 1830–1850

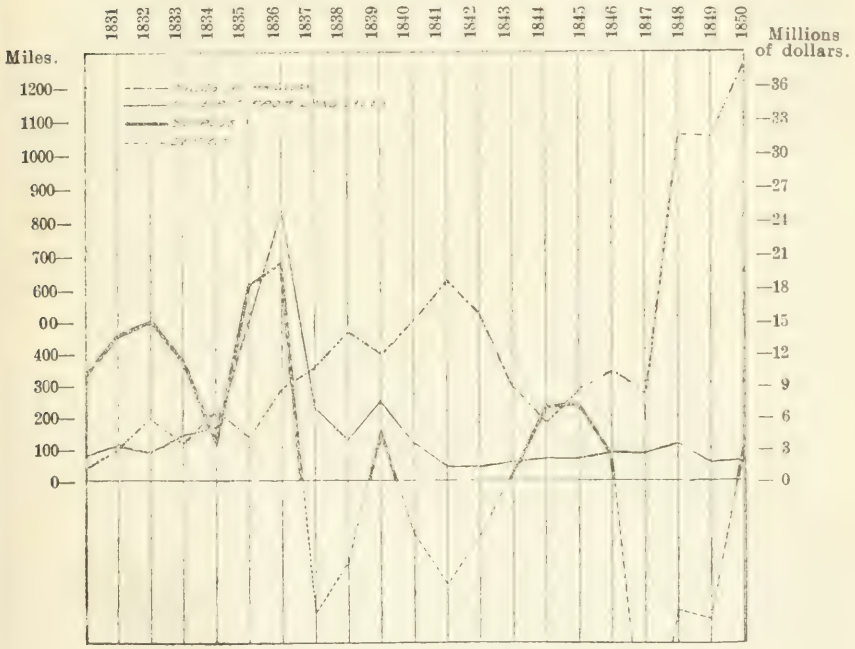
The conclusions to be drawn from a study of the general movement for donations of land to railways are similar to those reached in the case of the Mt. Carmel & New Albany, being, however, more comprehensive. There were proposals as early as 1830, but from 1833 to 1836 there came a maximum, followed by another period of activity from 1838 to 1840. From 1840 well down to 1846 there was little or no discussion of land grants in Congress, but in the latter year such discussions began in earnest and by 1847–48 we find a bill passing the Senate and receiving eighty votes in the House. It was in this session that the effort to obtain a donation for the Mt. Carmel road was revived. Finally, in 1850, the movement reaches a grand maximum in the passage of the Illinois Central grant. The writer is aware that it would be fallacious to base a judgment as to the strength of a movement solely on the *number* of bills presented from time to time. Other things being equal such a criterion would be valid, but when such is not the case quality as well as quantity has been considered. It is for such reasons, for example, that the activity in the period 1838–40 should be given more weight than that in the one preceding it.

There follows a chart illustrating the number of miles of railway constructed, surplus or deficit, and receipts from land sales during each year from 1830 to 1850. The reason for presenting this chart is that it helps to make clear the bearing of certain economic forces upon the movement we are discussing.

In the analysis of forces presented in the chapter introductory

[46] Above, p. 330.

to the general subject of land grants it was stated that the land grant movement was determined by the attitude of Congress toward the land question on the one side, and toward railways (internal improvements) on the other. The curves plotted on the chart give some rough indication of the relative strength



(Figures for the year 1843 are estimates.)

of these attitudes or tendencies. Some relation would certainly exist between the amount of railway construction and the pressure brought to bear upon Congress for aid to railway construction. A curve indicating the mileage added year by year would illustrate at least one factor at work on the demand side of the problem.[47] Not so direct, but nevertheless very real, would be a

[47] The table of duties on railway iron remitted annually closely corresponds to the annual fluctuation in railway construction and strengthens the conclusion. See above, p. 316.

relation between the condition of the nation's finances and the disposition to make donations of land.[48] A curve exhibiting the the annual surplus or deficit in the treasury illustrates an important factor on the supply side of the problem. The movement for land grants would tend to vary directly with the curve of railway construction, but is modified by conditions determining the facility of supply. The curve indicating receipts from land sales has been added as having some significance in this connection. Therefore, in so far as these factors (and the forces lying back of them and represented by them) determine, it is true that the movement for donations of land to railways would be the result of the interaction of the two and would increase or decrease according to the degree of their increase or decrease. In a broad way the existence of such a relation appears at once. It is most salient that during 1835–36 the factors reinforce one another, the curves moving in the same direction and showing the concomitance of a great surplus and an increase relatively great in railway construction; and at the same time there was much and effective agitation for railway land grants. The prevailing political doctrines and hostility to railways prevented. From 1841 to 1846 there was not much construction, and though the surpluses of 1844–45 coincide with a slight rise in the construction curve, industrial conditions did not cause great demand. Political conditions, too, were unfavorable during Tyler's administration, and the surplus itself was partly due to the protective tariff of 1842 which hampered railway extension by imposing a duty on rails. In 1850 a surplus again appeared and may have helped the grants which ensued.[49]

In closing this discussion of the railway land-donation movement a word should be added concerning the influence of gen-

[48] E. g., pp. 102, 142, 201, 204.

[49] The writer would not lay too much stress upon the importance of this reasoning. In the earlier years the fact that the mileage, both aggregate and added each year, was so small may deprive the fluctuations of much significance. And, again, in some cases, it is hard to say whether the agitation of land grants was cause or effect of railway construction; while a prosperous financial condition as indicated by a surplus was a cause for railway construction. Yet when all has been said, there are the relations pointed out, and it is believed that they are valid. Certainly the figure has the value of illustrating almost perfectly the movement for donations, and the analysis suggested has been needed.

eral industrial conditions. By 1836 there was a strongly marked tendency toward the speculative construction of internal improvements, which, though most prominent with regard to canals, influenced the projection of railways. In this year the House committee on public lands, in favorably reporting a bill for a donation of lands to Alabama for a railway from Mobile to the Tennessee river, urged that "the present state of prosperity in the country, unexampled at any former period in our history," has produced a spirit of internal improvements which should not be obstructed.[50] In 1836 a convention for promoting internal improvements in Missouri was held at St. Louis and expressed itself as desiring Congress to donate to the state 500,000 acres for that purpose; conventions of similar nature were held elsewhere. Even such states as New York and Pennsylvania were swept away by this current[51] and younger states naturally suffered most. The connection with land grants is obvious, but certain resolutions of the Board of Public Works of Illinois may be cited as illustration.[52] Whereas the general assembly of Illinois, these resolutions run, had, during 1836 and 1837, established a general system of internal improvements, "be it resolved, That our representation in Congress be respectfully requested to use their most diligent efforts to procure the passage of a law * * * making a donation of each alternate section on each side of the most important works * * * ."

By about 1841, as has been stated, the bubble was pricked; but while it was being blown railway construction was relatively rapid and roads were pushed out over public lands in increasing numbers. The crisis of 1837 did not have much immediate effect upon railway construction, as the chart clearly shows. These years, then, were such as might naturally contain agitation for land grants to railways.

The evils of the situation were accentuated by unsound financial dealings, loans being much depended upon and future profits looked to for reimbursement.

After 1841 the reaction set in and the general industrial situation was bad. The currency was chaotic. There was great

[50] *Rep. of Com., 1835–36*, III, No. 607.

[51] See Million, *State Aid to Railways in Missouri*, pp. 7–28, and references.

[52] *Sen. Doc., 1837*, No. 34.

relative over-production, especially in the West. The tariff of 1842 was a factor,[53] and it will be remembered that at this time a duty was imposed upon the importation of rails. All these things, taken together with the collapse of state activity under a huge burden of debt, are to be borne in mind in connection with the disappearance of the donation issue after 1841.

With the recovery of the country in the later '40s an era of rapid railway construction—still fostered by the states but prosecuted by corporations—began, and then came the Illinois Central donation.

---

[53] Above, 309.

CHAPTER XIX

THE CONGRESSIONAL PHILOSOPHY OF LAND GRANTS TO RAILWAYS

Having described in detail the movement for donations of land and the working of general economic forces which were concerned in that movement, it is fitting to examine briefly the doctrines and policies which actuated congressmen throughout our period.

Arguments of 1836 vs. Those of 1846[1]

In taking up this matter it is instructive to make cross sections of the committee reports at intervals of, say, a decade, and compare the structure of the arguments there advanced in favor of donating public lands to railways. To take a concrete case at once,—in 1836 Mr. Casey of the House committee on public lands presented a report in favor of making a grant for the Illinois Central Railroad.[2] The chief arguments advanced in this report may be summed up under six heads:

1. *General commercial advantages—from connections and location:* The road begins at a point of interrupted navigation, passes through a very fertile country, and terminates where navigation is closed for many months (on the Ohio). It will connect the Northeast with the great Southwest.

2. *General social and political advantages:* It will promote intercourse and bind together the Union.

3. *Military advantages:* When rivers are impassable, troops and war supplies may be rapidly transported.

---

[1] The reader is referred to chapters 2 and 3 of an essay on *Congressional Grants of Land in Aid of Railways*, by J. B. Sanborn (1899, U. of W. Bull., No. 30) for a running account of the arguments in debate over various bills for donating lands for railways.

[2] *Rep. of Com., 1835-36*, II, No. 525.

4. *Mail service:* Mails could be carried at all seasons of the year in one-fourth the time and at one-half the expense now required.

5. *Unsaleable lands:* Most of the lands asked have been on the market from ten to twenty-five years.

6. *Enhanced land values:* It will open up inaccessible lands and add to their value, and so recompense the government.

In addition to these reasons others may be added from a similar and contemporaneous report on the Mobile-Tennessee railroad.[3] Here the prosperous condition of the country was referred to in connection with the desirability of fostering the spirit of internal improvement then prevalent; and it was argued that the existence of great bodies of public land within the boundaries of the states acted as a barrier. There was much complaint, also, throughout this period on the ground that the states were deprived of their right to tax these lands.

The Proprietor Argument

The foregoing comprise the important arguments that were used with little variation in favor of donating public lands to railways about the middle of the fourth decade. Of these the most important was that concerning enhanced land values. This may be called the "proprietor argument," as it was based upon the doctrine that the federal government as proprietor of the public lands could properly dispose of them if compensation was received. The idea is clearly stated in a report on the Mt. Carmel & New Albany railroad which was made about this time:[4] " * * * your committee, keeping within the strict lines of their duty as *guardians of the joint property* of the nation, recommend an appropriation of one-half of these lands *as a financial measure beneficial to the United States, by adding value to the moiety retained.*" The dominance of the "proprietor argument" characterizes the first half of the period between 1830 and 1850.

The desirability of enhancing land values can be regarded

[3] *Ibid.*, III, No. 607.

[4] *Sen. Docs., 1838-39*, II, No. 49.

from two points of view—the economic and the political. The former is the original aspect; the latter is the derived. At the beginning of the nation the public lands were regarded as a source of wealth from which the public debt was to be extinguished and revenue derived;[5] hence it may be said that economic considerations prevailed. Between 1820 and 1830 sectionalism as between North and South grew deep and fixed, passing from the field of economics—the fundamental one—into that of politics. With the growth of the states' rights doctrines opposed to nationalistic tendencies there came conflicting policies as to the disposition of the public domain, and at the time the only ground of agreement which came into prominence was that the government might grant lands in case it received a *quid pro quo* —in other words, did not make a donation, but sold or exchanged the land for a valuable consideration. This is the political aspect. The application of the idea served as a sop to strict constructionists.

Of course the requirment that the road to be benefited have a national importance should be remembered, and this necessity was a reason for arguments one and two.

Turning now to arguments advanced ten years later, it will be interesting to discover if any changes have occurred in the congressional philosophy of land donations. In order that the comparison may be real, take a report of the committee on public lands concerning a grant to Illinois for a railway over practically the same line as that considered in 1836.[6] The arguments run thus:[7]

1. The railroad will connect the mouth of the Ohio with the Great Lakes (1 and 2).

2. It will have military advantages (3).

3. It forms a link in the chain of mail communication between New Orleans and the Great Lakes (4).

4. It will bring much land to market (5 and 6).

5. *It is the duty of the general government to aid the states in this way.*

---

[5] See a valuable article in Lalor's *Cyclopedia of Political Science* on Public Lands of the U. S., III, 461.

[6] *Rep. of Com., 1845-46*, II, No. 301.

[7] Figures in parentheses refer to heads on pp. 369-370.

The change is at once apparent; a new point is made; the committee holds it to be the duty of the government to aid the states by giving lands for railways.

The significance of this development appears more clearly, however, in other reports of the same year. On January 30, 1846, the committee on roads and canals reported in favor of a donation for the Northern Cross railway of Illinois. In addition to most of the points thus far discovered, the committee propounds: "Individual enterprise is inadequate to the accomplishment of these great objects" and hence the government should aid. The following words were also used: "Your committee believe it to be the duty of the government to pursue a liberal policy towards new states * * * ." But during the following month came the most notably changed report of all. Under date of February 24, 1846, Mr. Breese of the Senate committee on public lands presented a long historical argument[8] to show that land donations to new states for railways were dictated by both justice and good policy in that by this means the quantity of lands received by the various states would be equalized and also their status as sovereign powers. It was unjust to the new states to let lands lie vacant within their boundaries—contributing nothing in taxes for their support. Moreover, it seemed to the committee neither fair nor just that the states should construct unaided the railways by which the government was to profit.

But the "duty" of Congress toward the states—especially the new states—was not the only new tendency in the arguments for donations. In this same report it was urged that there were many other considerations than the money revenue, which, with all regard to the common benefit, might actuate Congress: "A direct pecuniary gain is not a necessary element"—these were words used by the committee in 1846. Evidently such ideas are diametrically opposed to the doctrine of the "Proprietor Argument." It may be said that, while this same report goes on to state that to some the direct pecuniary gain might seem most persuasive, and proceeds to mention commercial, military, and postal advantages, and while other reports of this time

[8] *Sen. Docs., 1845-46*, No. 152.

still lay emphasis on enhanced land values,[9] yet it is true that some time between 1836 and 1846 a marked development and change crept into the congressional philosophy of land grants.[10] This change was in the direction of an overthrow of the proprietor argument and tended toward greater "generosity" on the part of Congress: the grounds for it were, (1) justice to the states—especially the new states; (2) the growth of the idea that "direct pecuniary gain is not a necessary element." The latter has been called the "Homestead Idea."

The Homestead Idea

It is called the homestead idea because it found expression in the policy of giving land to actual settlers practically free of charge. As time went by the old conservative policy according to which a money gain was to be realized upon the public land began to weaken. The movement for graduated prices and pre-emption laws grew in volume. The committee on public lands voiced the sentiments of a large part of the people when in 1846 it stated that if a policy of giving land to actual settlers had been adopted the wealth and power of the nation would have been greater.[11] As Mr. Bagby (Ala.) stated in debate over a donation of land in aid of Michigan, there was a general wish that the price of the public lands should be reduced.[12] The attitude of the extreme adherents of the land grant and homestead policy may be understood from the language of Mr. Wescott (Fla.) in this same debate. After arguing that no other country had adopted so niggardly a policy as had the United States, he stated that ours was "a miserable, huckster-

[9] E. g., *Rep. of Com., 1845-46*, IV, No. 793.

[10] In 1840 a preamble and set of resolutions from the state of Tennessee were presented in which the Proprietor idea is taken to task: "Whereas, this Gen'l Assembly do believe, that the public domain of the United States should not be treated by the General Government as a mere source for the acquisition of money to the public treasury, but by reducing the price to reasonable and moderate rates should rather be regarded as the means of great and extensive encouragement to the augmentation of our population, and the reward of the laborer and the husbandman, (by the grant of pre-emption rights) who in times of peril will be a powerful bulwark to the frontier," etc. (*Cong. Globe, 1839-40, (Sen.)* p. 116.

[11] *Sen. Docs., 1845-46*, No. 152.

[12] *Cong. Globe, 1845-46*, p. 510 ff.

ing, peddling policy of selling it out at $1.25 an acre. Although, time after time, session after session of Congress, application had been made to them to graduate the price of these public lands, they had uniformly refused to lower the price, although the lands might remain unsold and unoccupied for twenty-five years. Whilst he was a member of Congress his vote would always be found recorded in favor of any bill granting public lands for any reasonable object; and he would not be very particular in his scrutiny of the probabilities of the utility of the object." These words well illustrate the lengths to which the majority of the inhabitants of the "new" or "land" states would go, and how completely their ideas were at variance with the "conservative" policy that was still adhered to by many of the states in the East and South—either because of constitutional scruples or desire to share in the proceeds of the sale of public lands.

Land Grant and Homestead Policies not in Conflict

Both the policy of donating lands to railways and that of giving them to settlers were opposed to the policy of selling them: it was Proprietor Policy *vs.* Land Grant and Homestead Policies. But is it true that, in turn, the Land Grant and Homestead Policies were in conflict?[13] This was true only to a very limited extent and no evidence of any great or effective opposition has been found. Indeed, the logic of the matter does not require it. The great question was, "shall the lands be sold, or donated and the development of their resources be the reward?" To this question railroad interests and settlers made one answer: "Give us the land." The movements for land donations and free land to settlers went hand in hand. Both grew with the growth of the West. One document makes argument for both.[14] When Mr. Bagby objected to the bill for donating lands to aid Michigan roads, that the price of public lands would be increased, whereas the people wanted a decrease,

[13] Sanborn, *Cong. Grants of Land in Aid of Railways*, pp. 46–49.

[14] *Sen. Docs., 1845–46*, No. 152. See also speeches by Mr. Davis (Miss.) and Mr. Chase (O.) on grant of land to Miss. (*Cong. Globe, 1849–50*, p. 1290, ff, passim).

Mr. Speight (Miss.) replied that he never before had heard that the people of the West desired a depreciation of the value of their lands.[15]

The truth of the matter is this: A large part of the western settlers wanted both free land for themselves and donations for railways, being, on both counts, at variance with the proprietor idea. The truth of this statement is illustrated by the resolutions of the Arkansas legislature presented in 1849: on the one hand, Arkansas asked that one-tenth of the public lands might be granted to the states in which they lay for purposes of education and internal improvement, and that her 5 per cent. fund be paid in land; on the other, that the price of public lands might be reduced. One great difficulty in settling the West was a lack of accessibility to markets; and outlet for his surplus production was the need of the farmer, and he favored internal improvements as a means of satisfying this need. Railways and donations of land to railways were so favored and in many cases the settler knew that the profitableness of his venture depended upon the construction of a railway.

It would be erroneous to believe that the opposition to the reservation by the government of alternate sections for sale at a double minimum price, which undoubtedly existed on the part of many settlers, meant an opposition between land donation and homestead ideas. This was not opposition to the donation, but to the incidental proprietor idea—to the provision for receiving an enhanced value—and a strong tendency appeared toward the close of the period to modify donations in this direction.

There was some opposition, too, to the railways as "corporations," "moneyed powers," "monopolies," etc.; but this had nothing to do with the attitude of homesteaders as such.[16] It indicates no conflict between the homestead policy and the land donation policy.

[15] *Cong. Globe, 1845-46* (Sen.), p. 510 ff.

Above, p. 353.

[16] The report of the Engineer for the Eastern Shore Rail Road (Md.) submitted to Congress in 1837 (*Sen. Docs., 1836-37*, III, No. 218) contains the following words: "With many there exists a repugnance to railroads, arising, perhaps from their apparent want of harmony with the settled habits of the community," and he accordingly added an appendix (a) which related the benefits to English land owners from railways.

The only real conflict that existed between the idea of donation to railways and the homestead policy was one that played no considerable or effective part in congressional action. This was the fact that the adoption of a homestead policy might deprive the lands donated to railways of much of their value by decreasing the demand for them. This point was made by Mr. Smith (Conn.) in debate on a Mississippi grant.[17] Obviously the application of this conflict was limited by the fact that lands adjacent to a railway were enhanced in value by the advantage of their position.

A comparison of votes cast in the House for a homestead bill on the one hand and a bill granting lands to Iowa on the other evidences no conflict, but rather a union of the two ideas. It seems that 51 favored both bills, 43 were against both, 35 were for homesteads and against the donation, while two favored the donation and opposed the homestead bill.[18] In the absence of contrary evidence it is fair to assume that the 43 negative votes were opposed to the two bills on the same or similar grounds, and that 94 out of 131 saw no conflict between the two systems. And when it is reflected that many of the 35 votes in opposition to donation probably were not cast against the donation principle, but against the proprietor idea—or were merely "agin the railroads"—the case is the stronger.

Arguments Against Land Donations and Answers: 1848

From a report made in 1848 by the Senate committee on public lands the chief objections to donating land to railways may be gathered.[19] (1) The particular grant involved was one to the Illinois Central and the objection was made that it was too large. On this point it was replied that the extent of the grant was in proportion to the great length of the road, and the fact that much of the land was unsaleable simply because of its distance from market warranted such length and extent. (2) Some opposition was aroused on the score that these grants

[17] *Cong. Globe, 1849-50*, p. 1290 ff.

[18] Taken from Sanborn's *Cong. grants, etc.*, p. 48. That writer holds that the homestead doctrine was opposed to the land grant system.

[19] *Rep. of Com., 1848-49*, No. 240.

were boons conferred gratis upon the states; but the committee mentioned the cost of constructing the railway borne by the recipient, estimating it at about $15,000 a mile, and referred to enhanced values as a return. (3) An argument against donations which was given considerable emphasis by some was that the states might keep the land for speculative purposes or otherwise improperly apply it. In answer it was urged that to so abuse a donation was not to the interest of the states; that the desirability of a dense population and abundant revenue from taxation made it good policy to sell them. (4) Probably the most important and long continued objection, however, rested on the ground that the public domain was pledged as a fund for the public debt, and to make donations in diminution of this fund would be a breach of good faith. This argument is closely connected with the idea that the government held the lands as proprietor in trust for the states. The reply to this reasoning was twofold: the grant was but an extremely small part of the public lands; and by enhancing the value of the remainder it would increase the ability of the government to pay. (5) Lastly, it was complained that the old states would lose by these grants as they should share in the public lands. But that the old states would lose anything was denied, for new markets would be opened and trade increase till they would really be gainers through enlarged commerce. This was a very modest and moderate reply; elsewhere western states did not admit the right of the Old States to share in the lands they contained, but claimed them as their own due.

The Influence of Sectional Interests

In the remarks introductory to the history of land grants it was stated that the determination of land donations was the result of the co-operation of two factors, namely, land policies and internal improvement policies, and that these two policies in their turn might be analyzed. This further analysis at once leads back to sectional interests.

1. *Internal Improvements and Railways*

The attitude of the typical, orthodox "Southerner" toward government participation in railway construction might be

summed up in saying he held to strict construction or was a "states' rights" man. Some time between 1824 and 1834 those interested in the institution of slavery came to realize that the interests of the North were not their interests, and that by the northern states slavery was regarded with growing repugnance. The predominant class of the South came to realize "that state sovereignty and the strictest construction concerning the functions and powers of the general government were the bulwark of its safety: that any sort of interference with the home affairs of the slave states, even in the way of internal improvement, would tend to undermine."[20] Thus slavery led the South to stand for a narrow construction of the powers of Congress and to tend strongly against government aid to railways, though in not a few cases local interest overcame general prejudice.

In 1848 Mr. Bagby (Ala.) submitted a series of resolutions in the Senate[21] to the effect that as the constitution was a compact between co-equal sovereigns delegating specified powers to the general government for the mutual benefit, powers not so delegated remained with the states or people, and that among them was the power to make internal improvements. He concluded that "any attempt by the General Government, under any pretext whatsoever, to construct roads, cut canals, or improve the navigation of any river within the limits of any one or more of the States * * * is a palpable violation of the Constitution, or if it be within the limits of a State or States is a direct and dangerous encroachment on the rights and sovereignty thereof."

It should be added that certain New England interests showed tendencies quite similar, both at the Hartford Convention and later. The West, too, chafing under measures carried by eastern votes, at times gave voice to similar sentiments. In the latter section, there was dissatisfaction over the public lands, and Senator Bowlin (Mo.) during 1849–50 expressed both this and a states' rights attitude, saying that when a sovereign state of the confederacy wanted a pittance of her own sacred soil to aid in internal improvement she got no satisfaction; but was either turned away and reproached with aiding land stealing

[20] Shurz, *Clay*, I, 313.
[21] *S. J.*, *1847–48*, p. 117.

schemes, or given small amounts with alternate sections doubled in price.[22] In general, however, there was a broad division between North and South on the subject, based upon the economic opposition between an agricultural, slave-holding section and an industrial, free section.

2. *The Public Domain and Land Grants*

Senator Bowlin's complaint brings up the other factor in the analysis—land. Here the alignment of sections was somewhat different and more complex. Beginning with the South, it is noteworthy that the deep-lying economic peculiarities of this section which led up to the states' rights doctrine found more immediate and practical expression with regard to the tariff and the public domain.[23] In the first place, the general strict-constructionist idea which affected her attitude toward internal improvement also entered into the South's land policy, and in some instances she demanded that the public domain be given over to the several states in which it lay, to be disposed of at their pleasure. The interaction of the two factors, land and internal improvement policies, together with the South's attitude, may be illustrated by a report of the committee on public lands made in favor of a donation to the Illinois Central.[24] One point set forth in a very conservative way the argument that the government was a great land-owner, though in trust for the states, and as such could lawfully take steps to render its lands more valuable by making railways through them: It was stated that "*a denial of this right would seem to involve a denial of the right to own them.*" Now to deny this right was exactly what a large part of the South did. The resolutions offered by Senator Bagby[25] represented the prevalent doctrine of the South in opposing federal internal improvement and that opposition, as the committee saw, involved a denial of the right to own the public domain. A Florida senator in debate stated that he favored the entire cession of

[22] *Cong. Globe, 1849–50*, Appendix, p. 330.

[23] See Ballagh, J. C., *Southern Economic History: Tariff and Public Lands* in *Amer. Hist. Assoc. Rep., 1898*, I. A valuable article for the South's policy and sectionalism in general.

[24] *Rep. of Com. 1848–49*, No. 244.

[25] Above, p. 378.

the public lands to the respective states in which they lay.[26] Senator Bowlin's complaint is sufficient indication of this point, and he said that the new states were looking forward eagerly to the time when their land should be their own. But in closing the discussion of this first phase of the South's attitude toward land grants, attention should again be called to the fact that the interests of land-holding and non-land-holding states were not identical and that both kinds lay in the "South." There was an East and West within the southern section, and it was the western element that was keenest for land distribution. The South's attitude toward retrocession formed a bond between herself and the West.

There were those, too, who argued that as a general cession of public lands to the states was desirable, so grants of smaller amounts—for railways—were not to be objected to. This naive bit of logic does not seem to have gained currency, however.

In the second place, the existence of slavery in the South affected not only her general political ideas by making her sensitive on the subject of states' rights, but more particularly it directly colored her views on the land question. Extension to new lands was necesary to the perpetuation of the existing system of agriculture, whether from an economic or a political point of view, and to this end the South might tend to favor land donations.[27] But the movement of cotton and slavery westward was characterized by the establishment of large plantations and the ousting of small-scale, free farmers. Any system of disposing of the public domain which encouraged small scale farming by free labor was opposed to the slaveholder's interests, and the South tended to look upon homestead acts with disfavor. Thus there would seem to be a conflict between desire for land and opposition to free settlement. But in so far as gratuitous grants or liberal terms fostered a settlement by farmers and impeded the spread of the plantation system, the South was opposed to them, and only in so far as such grants were available for the land system of the South,

[26] *Cong. Globe*, 1845-46, p. 511. (Sen. Yulee.)

[27] Ballagh, J. C., *Tariff and Public Lands*, in *Amer. Hist. Assoc. Rep.*, 1898, I, 237 ff.

or as the South made deliberate concessions to conciliate the West, did she favor them.

Finally, the South's attitude toward the tariff played a part. The tariff is mentioned here because of its close connection with the government's land policy. It was the conservative, strict-constructionist idea that the public domain should be disposed of by sale and the proceeds be applied to the public debt or current expenses. Obviously—other things being equal—just to the extent this was done the necessity for revenue from other sources would decrease; hence if one section desired a tariff it would tend to favor diminishing revenues from other sources in order to make that tariff needed, while free-trade advocates, as Southerners early became, would look with disfavor on donations of land which decreased receipts from that source and made room for revenue from duties on imports.[28] The South's attitude toward the tariff, then, tended to reinforce her conservatism in the disposition of public lands.

But the desire of the South to conciliate the West and to attach that section to herself led her in some cases to take a less conservative course toward the disposition of the public lands, and the existence of the "western" or "new state" element in the greater South should again be remembered. Some evidence of this condition probably appears in an episode of the debate on a bill granting the right-of-way and a donation of public land to Mississippi for a railway from Brandon to her eastern border.[29] An amendment which proposed to strike out that part of the bill which provided for raising the price of sections reserved for the government being under discussion, Mr. Dawson (Ga.) argued that this would be overthrowing the estab-

[28] The statement that the South stood for gratuitous grants or liberal terms in order that revenues available for expenditure on internal improvements might be reduced does not seem well founded. No evidence has been found for it in this study. Moreover, it is in conflict with the logic of the case. In the first place, it would only apply where such grants did not lead to introduction of settlers at variance with the predominant southern system, as indicated above. Again, it conflicts with the fact that increased land revenues made tariff less necessary, and the South was perhaps more generally opposed to tariffs than to internal improvements. Finally, this idea could naturally only arise at times when there was agitaton for federal internal improvements and a surplus revenue. The reasoning here controverted occurs in J. C. Ballagh's monograph in the *Amer. Hist. Assoc. Report* for 1898, cited above.

[29] See *Cong. Globe, 1849-50 (Sen.)*, p. 1290.

lished principle upon which grants had previously been made. He appealed particularly to Mr. Davis (Miss.)—who had spoken in favor of the amendment—asking if he would consent to the abandonment of that principle on which the majority had acted —the principle that "it is not an appropriation for internal improvements directly, nor even a donation," inasmuch as compensation was assured through provision for enhancing the value of the reserved sections. Mr. Davis replied that he did not believe the amendment involved an abandonment of the proprietor principle. He was convinced that, as the land had been on the market for twenty or thirty years and was either poor or remotely situated, the government would gain by disposing of it at any price, or even by giving it away. The attitude of the Mississippi senator seems an attempt to reconcile a generous land policy to some show of the conservative proprietor idea, and the difference between the two speakers was one typical of the sections they represented —Georgia and Mississippi—landless and landed, "South" and "Southwest."

On the part of those eastern states not embraced in the South there was less of sentiment or political creed involved and there were not the deep economic peculiarities that marked the South. One factor was the interest of those who desired a high tariff for protection. This was especially strong in Pennsylvania and the middle states. Such states "feared that if the revenue became excessive the tariff must be lowered,"[30] and this fear operated to induce a favorable attitude toward land grants as a means of preventing an excessive revenue. But there were other and conflicting factors here, among which the opposition between landed and non-landholding states appear.[31] For instance, in 1847, Mr. Archer presented the petition of the citizens of Philadelphia praying that no public lands might thereafter be granted to states except for purposes of internal improvement.[32] This indicated opposition to the agitation for pre-emption laws and graduated prices for public lands that was then prevalent in the new states, but it shows a tendency

[30] Dewey, *Financial History of the U. S.*, p. 217.
[31] See above, p. 345.
[32] *S. J.*, *1846-47*, p. 92.

and the same spirit was evinced toward donating lands for railways—namely, one of scattering opposition. Some feared the speculation that was undoubtedly fostered by land grants. Owing to ideas concerning government functions, tariff, and railway construction which prevailed in the northeastern and middle states, this opposition was not general, but there was the feeling that the public lands should be disposed of by sale and that the eastern states should share in the proceeds, either directly or indirectly through reduction in public debt and taxes. The non-landholding states complained that they were not receiving their due benefit from the disposition of the public domain.

On the other hand, the West—or, better, the land states—complaining of abridged sovereignty, argued for grants of land to the states for railways and other purposes on the ground that such grants would no more than equalize amounts donated to old and new states. In 1845–46 Mr. Yulee (Fla.) expressed himself as willing to concur in any legislation for reaching equality "by bringing all the new states up to the ratio of that one of them which had received the largest quantity." —which, he believed, was Indiana.[33] He was asked, why not give a similar amount to the old states, and replied that the exemption from taxation of public lands within their borders was the inducement in the case of the new states. In championing a land grant for railways in his state, a Michigan Senator declaimed to a colleague from Connecticut: "Are we to go on doing everything and you nothing? You do not even pay your share of the ordinary expenses of state government * * * You have the benefit of our taxes, but pay none yourself."[34]

Not long after the close of the period of centralistic tendencies that followed the war of 1812, John Marshall, in favoring the devotion of all the proceeds of public lands to deporting negroes, said: "The lands are the property of the United States, and have hitherto been disposed of by the government under the idea of absolute ownership."[35] Quite as federalistic were the words of Senator Cass (Mich.) when some fifteen years

[33] *Cong. Globe, 1845–46 (Sen.)*, p. 751 ff.
[34] *Ibid.*, p. 744.
[35] *15th Annual Report of the Colonization Society*, p. 32.

later he argued for a donation of land to Michigan. The General Government, he said, is a great land-holder, which, though ordinary jurisdiction passes to the state governments upon their formation, still has ample power to donate of its domain for these purposes. "It has got the authority to make all *needful rules and regulations for the disposition of its property*, and to dispose of it just as it pleases, restrained only by a wholesome discretion."[36] The attitude of the West toward homesteads and pre-emptions has been referred to. From all that has gone before it is clear that this section generally stood for broad interpretation of Congress' power over public lands and tended to favor donations of all sorts.

It is interesting to reflect that it was the West, the seat of individual enterprise, which urged government powers all but paternal. It was the sturdy, hustling West that upheld the benefit derived from government aid to its settlement and enterprise. While the conservative East, the lingering place of Federalism, it was, that glorified individualism and decried federal interference. Such is the power of economic interest to mold and beget sectionalism.[37]

Here is apparent the opportunism of American politics.

---

[36] *Cong. Globe, 1845–46*, p. 743. The italics appear in the *Globe*.

[37] The debate beginning p. 742 of *Cong. Globe, 1845–46*, is extremely interesting and instructive. Here Calhoun explains his ideas, Niles of Connecticut argues characteristically, and Cass of Michigan upholds the new state idea.

BOOK III

RAILWAYS TO THE PACIFIC

PART I.—ISTHMIAN PROJECTS.*

CHAPTER XX

HISTORY OF ISTHMIAN TRANSPORTATION PROJECTS WITH ESPECIAL REGARD TO RAILWAYS

Introductory Account of Transportation Projects Under Spain

The political and commercial importance of the narrow land bridge between the continents of North and South America were early recognized by Spain. Here, by a few miles overland travel, one could enter the great Pacific whose waters washed the far Spice Isles and the golden shores of the Orient. Just a little to the south lay Peru, and Pizzaro noted the significance of the isthmus of Darien. Balboa in 1513 was the first European to cross the isthmus, at which time he trod his classic steps into the calm waters of the new ocean, claiming them for his master, the king of Spain. To more practical effect, he actually transported materials across the mountains for constructing a small fleet with which to make the conquest of the "South Sea."[1] King Ferdinand established a line of posts from sea to sea, and by his order the city of Panama was begun during the month of August, 1517, a road being constructed to this point from Nombre de Dios. In 1522 Gonzales discovered Lake Nicaragua and sailed down the San Juan river to the

* The term isthmus will be used to cover the whole extent of narrow land between Tehuantepec and Darien, thus embracing the Tehuantepec, Nicaragua, Panama and Darien routes.

[1] See *Rep. of Isth. Canal Com., 1899–1901*, Wash., D. C. 1901 (*H. R. 15*) This contains a valuable introductory chapter on early Isthmian projects.

Gulf. Charles V. took an active interest in establishing communication across the isthmus, and, though the hoped-for strait was not to be discovered, commerce increased and Panama became an important port. The gold and silver of Peru and the wealth of Asiatic trade were here transhipped, and carried in packs across the isthmus to be placed aboard homeward bound galleons. But little later—between 1520 and 1527—Cortez in Mexico explored both coasts to the north. He found the most feasible route to lie up the Coatzacoalcos river and thence across the isthmus to Tehuantepec, and a profitable commerce soon followed that line.[2] Finally Charles V. had an examination made with the idea of connecting the head of navigation on the Chagres with the Pacific by means of a canal, but this was reported to be impracticable. Thus in the early days of exploration Spain was active in seeking to develop a practicable line of transportation across the isthmus, and the Panama and Tehuantepec routes were followed by lucrative trade.

When Phillip II. came to the throne experimentation ceased. Spain for a time attempted to conceal from the world the significance of the isthmian region,[3] and not till toward the close of the eighteenth century did new projects become of importance. "At the close of the eighteenth century * * * the Cordilleras still kept the two oceans apart; the old transits had fallen into disuse * * *; the chief exception being at Tehuantepec, where a communication across the isthmus had once more been opened."[4]

Quasi-private Projects of Foreign Interests: 1827–1850

Von Humboldt's visit and the account concerning isthmian conditions and topography which he published aroused new interest[5] in connecting the two oceans, but the glory of this feat was forever denied to Spain, for the revolt of Mexico in 1822 and of her other American colonies at about this time gave the

[2] *Ibid.*, p. 29.

[3] See *Niles' Register*, LXV, 302-3, for a sketch of the history of isthmian communications.

[4] *Rep. of Isth. Can. Com.*, above cited.

[5] *Niles' Register*, LXV, 302-3.

isthmus itself into other hands and the work was taken up by the various states of America. A period ensues which for the most part is characterized by an attempt to exploit the isthmian transportation possibilities by various private individuals or corporations. Several European governments were concerned, as were, of course, those states of Central America through which the different routes passed; but the ends were not predominatingly nor largely political. This was the period, too, when the railway began to play a part in the various projects.

Remembering that as early as 1825 the enterprise of the United States began to figure in this matter,[6] it will be well to first proceed with the thread of foreign events.

Between 1819 and 1821 Bolivar—as President of Columbia, a political unit embracing New Granada, Venezuela, and Ecuador—was stimulated by Humboldt's work to conceive plans for joining the seas, and in 1827 one, J. A. Lloyd, made surveys to that end. He advised the use of a canal, the river Chagres, and a railroad from thence to Panama; but the only result from the investigation seems to have been to prove that a good road of some description was entirely practicable.[7]

About the same time (1830) the Holland—or Netherlands—Company, in which the government of that name was interested, was projecting a canal over the Nicaragua route, but the project was soon abandoned.

The next important development was the granting of the privilege to construct a canal at Panama to Count Charles de Thierry, an Englishman by birth. The grant was made by New Granada in 1835. De Thierry was unable to carry out his plans, however, and got French capitalists of Guadaloupe to take them over.[8] These new interests secured valuable concessions, but, though the time limit was extended more than

[6] 1825-26, Aaron H. Palmer of N. Y. obtained a transportation contract and endeavored to interest capitalists in this country and England; but failed, and his contract expired.

[7] The article in *Niles' Register* above cited says, "Unfortunately these two talented engineers (the surveyors), occupied solely with the idea of rendering the Chagres river navigable, and of connecting it with Panama by a railroad, directed their attention in the first place to Cruces, whence they descended to Chagres, leaving thus unexplored the wide valley extending along the left bank of the river."

[8] See *Niles' Register*, LXV, 279 (1839); *ibid.*, 303; and *Rep. of Isth. Can. Com.*

once, they were unable to utilize them. It is significant that the means considered were either a canal, railway, or macadamized road. But in 1843 an engineer named Napoleon Garella reported against the railway on the ground that such a means was of local interest only, and nothing less than a ship canal would attract the world's commerce.[9]

Other developments came in 1842 when the Mexican government appears to have given to a certain Don Jose de Garay exclusive privileges at Tehuantepec;[10] and in May, 1847, New Granada granted to the Panama Company, a French concern represented by Mateo Kline, exclusive right for ninety-nine years to construct a railway across the isthmus, which right was forfeited through failure to carry out the contract.[11] About this time Great Britian was pursuing an aggressive policy in Central America looking toward acquiring control of the San Juan river, and this condition led up to the now famous Clayton-Bulwer treaty of 1850, with which treaty this brief record of foreign isthmian projects may be closed. Sufficient material has been presented to emphasize the nature of the period from 1827 to 1850 as one during which French, English, Dutch, Mexican, and American companies projected canals and railways over the isthmian region.

The United States Takes a Hand

The private projects just recorded seem to have been made with little or no regard to the United States of America; but the successful revolt of the Spanish colonies and political developments in Europe and this country soon made such a condition impossible. In 1823 the Monroe Doctrine was formulated, and from that time on the construction of a canal or railroad over the isthmus by European interests with no reference to the interests of the United States nor surety against encroachment upon the sovereignty of the American republics became in-

[9] *Rep. of Com., 1848–49*, No. 145, p. 589. The whole volume is devoted to engineers' reports, travellers' accounts, etc. concerning transportation to the Pacific.

[10] *De Bow's Review, 1847*, pp. 496–502. See below, p. 397. *Sen. Docs., 1851–52*, X, No. 97.

[11] *Rep of Isth. Canal Com.*, p. 50.

creasingly improbable. The opposition to sending delegates to the Panama Congress (1824–26), however, seems to indicate that at this time sentiment against the interference of European powers was not as general as might be supposed. Very soon after the fall of Spanish power in America evidence appears that Congress was taking interest in isthmian communication developments. In 1825 the House resolved "That the Committee on Naval Affairs be instructed to inquire into the expediency of establishing a line of communication between the Atlantic and Pacific Oceans, though the Isthmus of Panama."[12] No action was taken upon the resolution, but at the following session a similar resolution led to a report on the subject.[13] It will be observed that it was just at this time that Aaron H. Palmer of New York was endeavoring to float his isthmian enterprise. This early show of interest by Congress is doubtless to be connected with the events surrounding the revolt of the Spanish American colonies, the Monroe Doctrine, and the Panama Congress. The first very active participation of the United States in isthmian transportation projects only came some ten years later.

The Mission of Colonel Charles Biddle

On March 3, 1835, the Senate passed a resolution to the effect that the President be requested to take steps for protecting isthmian projectors in their rights.[14] Accordingly, in 1837, a message from President Jackson was submitted which stated that the above request had been complied with and that an agent had been despatched to examine the various routes and the "state of projects * * * understood to be contemplated for opening such communication by a canal or a railroad."[15] The message concluded by announcing that the probablity of a speedy opening of communication was not so great as to require a treaty. The agent referred to was one Col. Charles Biddle and this mission of his forms one of the most interest-

[12] *H. J., 1825–26*, p. 71.
[13] *H. J., 1826–27*, pp. 101, 200.
[14] *S. J., 1834–35*, p. 238.
[15] *Ibid., 1836–37*, pp. 100–101.

ing episodes in the history of isthmian transportation history. When Biddle, in pursuance of his instructions, arrived on the isthmus, he found that exclusive canal privileges had been granted to De Thierry,[16] and, instead of merely collecting information concerning various routes and projects, he proceeded to rival that speculator. Now his only chance of success in opposing De Thierry's canal project lay in obtaining railway concessions, so he labored to persuade the people of New Granada that a canal was entirely unfeasible and that a railway was the best means. Events prove that he did this with the idea of private gain; for, as a writer quoted in *Niles' Register* states,[17] "Col. Biddle, misled by jealousy (of Thierry), and forgetting the objects of his mission, asked and obtained *in his own name* a charter authorizing him to construct a railroad * * * at a distance to the right or left of three miles beyond the projected canal." Of this charter Biddle himself wrote: "The principal items of the agreement are these—'Two-thirds of the stock is the property of Charles Biddle and such citizens of the United States as he may associate with him; the remaining one-third is the property of the New Granadians. The office of the company is to be Philadelphia, and all installments are to be paid there; and the number of directors is to be in the same proportion as the quantity of stock.'"[18]

After some correspondence over the matter the government disapproved of Biddle's action, and he returned to the United States, where he shortly died,—of mortification, we are told.

Biddle's plan involved steamboat transportation up the Chagres river to Cruces, thence by railway a distance of fifteen miles to the Pacific. The route, he reported, offered no greater obstacles than that from Washington to Baltimore and over it a safe conveyance from the Atlantic to the Pacific could be secured in six hours.[19] His exploit could not but have attracted considerable attention and is of no small significance in the history of isthmian railway projects.

[16] Above, p. 388.

[17] LXV (ch. 20), 202, 203.

[18] *Rep. of Com., 1848-49*, No. 145, p. 273.

[19] *Ibid.*, p. 271. For detailed matter concerning this subject, this report of 1848–49 is a source. See pp. 271 ff. and p. 217. Page 314 gives a translation of the act of New Granada.

Shortly after Biddle's ill-starred mission the subject of a Panama railway was brought up in the House, but no action taken. Mr. Underwood submitted certain joint resolutions, the burden of which was as follows: The President was to open correspondence with the confederacy of Central America with regard to joining the commerce of the Gulf with that of the Pacific "by means of a railroad or a canal, or both;" he was requested to make a treaty providing for the protection of United States citizens who might invest in such a railway or canal; and, with the confederacy's consent, to depute engineers to survey routes for the undertaking.[20] Though nothing came of these resolutions, they are significant as an indication of the interest of at least a part of Congress in a route across the isthmus,—as a straw showing wither the wind was tending.

Isthmian Railways Become of Great National Importance: 1846

For a decade after Col. Biddle's project Congress did not participate in the movement for an isthmian way to the Pacific. Following the unsuccessful resolutions just noted, there were several memorials,—one in 1840, by W. A. Duer, for surveys with a view to finding out the practicability of a ship canal at Panama,[21] and one in 1842 by merchants of Philadelphia for a line of packets to Chagres and an overland mail to Panama,[22] but not till 1846 was important action taken. Then the growing importance of this matter was realized, and a treaty was consummated with New Granada for securing transit rights across the isthmus: the United States undertook, in consideration of free and uninterrupted right-of-way over the isthmus of Panama, to guarantee to New Granda, for a period of twenty years, the neutrality of this isthmus and the sovereignty of that state over its territory.[23] The treaty was formally ratified in 1848, and that its significance as a new development in the

[20] *H. J., 1838-39*, p. 170. Debate arising on these resolutions, they were laid over under the rule.

[21] *S. J., 1839-40*, p. 152.

[22] *Niles' Register*, LXIII, 380.

[23] *Rep. of Com., 1848-49*, No. 26, pp. 15-16.

country's foreign policy was recognized is indicated by the following passage from a report by the committee on naval affairs: "This is a very wide departure from our foreign policy hitherto, and its justification is only to be found in the exigency of the case—the over-ruling necessities of our position with reference to our territories on the Pacific. * * * This treaty, therefore, is but a simple advertisement to all the world, that for the next twenty years at least we will, with the permission of New Granada, cross the isthmus of Panama, and you must not interfere."[24] This recognition of "the necessities of our position" could not but have come at the time it did. It was a time of war with Mexico and the acquisition of Texas and California. Already emigrants to the Pacific coast moved in such numbers as to make the safety and facility of their course a matter of national solicitude; the establishment of postal connections became a problem; it seemed certain that Great Britain had designs upon the Nicaraguan route. In 1848 gold was discovered in California, and was sought by a stream of "forty-niners." From 1848 on an efficient communication over the isthmus was but a question of time. New factors had come into existence which made the question distinctly a national one, and marked the beginning of a new period of interest in isthmian railway projects.

The Pacific Mail Company's Panama Railroad

Probably the most important of isthmian railway projects from a congressional point of view is that of the Pacific Mail Company, an organization headed by W. H. Aspinwall, J. L. Stephens, and H. Chauncey. In 1848 these gentlemen memorialized Congress with reference to a railroad across the Isthmus of Panama: "The acquisition of California and the settlement of our boundry line in Oregon," they relate, "have opened a new era in the history of this country. * * * Already it is felt as a hardship by those who go out from amongst us, that, once settled in California and Oregon, they are, to a great extent, cut off from all the dearest relations of life; that there are

[24] *Ibid.*, p. 16.

no means of returning, or of personal intercourse with friends at home, except by the stormiest passage ever known at sea (around Cape Horn), or the most toilsome journey ever made by land."[25] This deplorable condition they proposed to remedy by constructing a railway over the isthmus of Panama, a distance of less than 50 miles.

The memorialists went on to recite that the Panama route was probably worse than in the early days of Spanish dominion. No wheel carriage had ever made the passage. From twenty-eight to thirty hours were required to ascend the Chagres in canoes to a point whence a difficult mule road led down to Panama by a journey of from eight to ten hours. The company being engaged in transporting the mail from Panama to California and Oregon, their own interests led them to make an examination and survey[26] with the idea of improving the road, and finally to secure from the republic of New Granada the privilege of constructing a trans-isthmian railway, good for ninety-nine years.[27] In this step they seem to have had some encouragement from "several gentlemen in high position at Washington."

Having proceeded thus far in their own interest, the company realized that this was a "great American work" upon which they were engaged, and asked the co-operation and aid of Congress. They requested no advance of money, but a twenty-year contract for the transportation of army and navy stores, troops, public agents, and the United States mails, with compensation not to exceed the amount stipulated by law to be paid for the transportation of mails to Liverpool.

In reporting upon this memorial, Mr. T. Butler King of the committee on naval affairs stated it to be the company's intention to construct a railway across the isthmus, *if suitably aided*

---

[25] *Sen. Misc., 1848–49*, I, No. 1.

[26] The report of the engineer concerning this first examination may be found in *Rep. of Com., 1848–49*, No. 145, p. 669.

[27] A copy of this charter is appended to *Rep. of Com., 1848-49*, No. 26, pp. 26–41. The memorial incorrectly states the period as ninety nine years. That was the time granted to the French company represented by Kline (above, p. 389), but Aspinwall's charter only ran for forty-nine years. Otherwise they took over the French company's rights, which company had failed to make the required deposit.

by the government.[28] It therefore became the *duty* of Congress, in the light of our recent expansion, to consider whether commercial, industrial, and military interests did not justify a grant of such aid as might secure the completion of the proposed railway. The report emphasizes the importance of the road as a factor in Pacific commerce[29] and the necessity for securing its management to American interests. Moreover, the people of the United States were anxiously looking for the completion of a railway from the Mississippi to San Francisco, and this Panama railway would form a southern branch, as it were, of the great scheme of uniting the two oceans; between the northern route and the Panama line no parallel communication would be necessary.

Accordingly the committee recommended a grant of $250,000 per annum, as being an amount equal to 5 per cent. on the proposed investment, and not greatly in excess of what the government would pay for the stipulated services. Mr. Benton (Mo.) brought in the bill, which differed somewhat from the measure recommended by the committee in the amount of the grant.[30] The bill proposed an annual sum not to exceed three-fourths of the amount stipulated by law to be paid for the transportation of mail from New York to Liverpool. This, it seems, was equivalent to $300,000 per year, and in twenty years would amount to a total of $6,000,000, which, it was argued by Mr. Breese (Ill.) would yield a profit of $4,000,000 over the estimated cost of the road, not to mention tolls on traffic other than that furnished by the government.

The chief objection to the bill, however, turned upon the subject of monopoly. Mr. Hale (N. H.) opened the fire on this score by opposing it as a "contract" with three individuals, —a word which, he said, had grown somewhat odious of late,— and a monopoly, all citizens of the United States other than Mr. Wm. H. Aspinwall, John L. Stephens, and Mr. Chauncey, being by this bill deprived, for 20 years, of the privileges which

[28] *Rep. of Com., 1848-49*, No. 26.

[29] The China trade; whale fisheries; trade with non-United States Pacific Coast; U. S. Pacific territories.

[30] *Cong. Globe, 1848-49*, XX, 40.

might accrue.[31] Mr. Johnson (Md.) argued that as no limitation had been put upon rates of charge, these might be made so high as to be exorbitant and yield enormous profits. The objection of Mr. Allen put the whole matter concisely: "I desire to say that I shall oppose any form of proposition, come from what quarter it may, which has for its object to confer on a select body of men a monopoly of the transit of commerce of the two hemispheres across the isthmus of Panama."[32] And Mr. Cameron (Pa.) was utterly opposed to connecting the treasury with individual interests; he thought Congress ought to endeavor to "*induce competition*" instead of conferring exclusive privileges. Finally Mr. Benton himself, who was the staunch supporter of the bill, said he felt the argument against monopolies—all monopolies—as strongly as any one, arguing, however, that the extraordinary character of the work justified this grant on the ground of expediency.[33]

After long debate, Mr. Douglas (Ill.) introduced an amendment as a substitute for the bill. He proposed to reduce the grant to $250,000 a year as originally suggested by the committee, and to make the contract binding upon the government for ten years only. His substitute further proposed certain restrictions on the charges to be made on American traffic.[34] Clearly Mr. Johnson's objections and this amendment evince a tendency to regulate the rates to be charged upon the proposed railway. This fact is of interest in connection with the point made in the chapters on "The Railway and Government" and "The Mail Service and Aid to Railways," that aid granted to railways tended to cause regulation of those railways.

The debate was continued on Mr. Douglas' substitute,[35] and considerable opposition to the Panama route as compared with the Tehuantepec and Nicaraguan routes was developed, its unhealthfulness and proximity to English fortifications being alleged. The end of the matter was that the bill was laid on

[31] *Ibid.*, p. 50.
[32] *Ibid.*, p. 59.
[33] *Ibid.*, p. 49.
[34] *Ibid.*, p. 382.
[35] *Ibid.*, p. 398 ff.

the table and nothing done to aid Messrs. Aspinwall, Stephens and Chauncey at this session of Congress.[36]

At the following session another memorial was presented, stating the heavy expenditures undergone, explaining the defeat of the preceding bill, and attempting to dispel a prevailing "impression" that a ship canal would best serve the commercial interests of the United States and of the world. The memorialists had been incorporated by the state of New York under the legal name of "The Panama Railroad Company" with a capital stock fixed at $5,000,000. They prayed for an immediate, definite engagement that the road when completed should be employed, "as necessarily it must be," in the public service, at a fair rate—the national importance of the work and the risk undergone in its execution being considered.[37]

Without pursuing the course of the Panama Company beyond the limits of of our period, it will be sufficient to observe here that in 1855 the railroad was at length constructed and without direct government aid.

P. A. Hargous' Petitions for a Railway at Tehuantepec

Less than two months after the Pacific Mail Company's first petition for a Panama railway, one was presented in the Senate with reference to a railway across the isthmus of Tehuantepec.[38] The Mexican government had turned over to P. A. Hargous and others the privileges formerly extended to Don Jose de Garay,[39] securing to them for fifty years the exclusive right to open communication across the isthmus, and exempting them from imposts or forced loans and their passengers from transit taxes. The route from the mouth of the Coatzacoalcos was 135 miles on a straight line, 30 miles of which were to lie on the navigable waters of that river. By this route the distance from the mouth of the Mississippi to San Francisco would be 3,294 miles, whereas to go by Panama would make a journey of 5,000 miles. The

[36] *Ibid.*, p. 626. At this session a bill to make compensation for the transportation of troops and supplies for a limited time, over the isthmus of Panama, etc. was also reported in the House (*H. J., 1848-49*, p. 257) but nothing came of it.

[37] *Sen. Misc., 1849-50*, I, No. 30.

[38] *Sen. Misc., 1848-49*, Feb. 6, 1849, I, No. 50.

[39] Above, p. 389.

climate, moreover, was favorable, materials were abundant, and the native labor force adequate and docile. Hargous merely asked that Congress suspend judgment until the relative merits of the route be fully examined. This memorial no doubt helped in bringing about the defeat of Aspinwall's, in so far as a belief in the superior merits of the Tehuantepec route was effective to that end.

The Rockwell Report: 1849

In 1849 Mr. Rockwell of a select committee on canals and railways between the Atlantic and Pacific submitted a voluminous report on the various routes across the isthmian region of Central America. After discussing the relative merits of canals and railways, the conclusion reached was that "between these two modes of communication there cannot be a doubt but that a railroad is most to be preferred."[40]

The Accessory Transit Company's Route

Soon after the treaty of 1846 with New Granda had been ratified in 1848, efforts were made to procure similar transit rights over the Nicaraguan route. The American *charge d' affairs*, Elijah Hise, negotiated a treaty according to which Nicaragua granted to the United States or a company of her citizens the exclusive right to construct a canal, railroad, or turnpike[41] in return for aid in defensive wars. This treaty was not approved of by the United States and Hise was recalled. His successor, E. G. Squier, made a treaty in behalf of Cornelius Vanderbilt and others, under the title of the American Atlantic and Pacific Ship Canal Company, for facilitating transit across the isthmus by means of a canal or railroad. This treaty, again, was not ratified. This Canal Company, through a subsidiary organization known as the Accessory Transit Company, established a communication between Grey Town and

[40] *Rep. of Com., 1848-49*, No. 145, p. 5.

[41] In 1849 two memorials came before Congress for aid in constructing turnpike or plank roads across the isthmus. See *S. J., 1848-49*, p. 228; and *Sen. Misc., 1848-49*, No. 56.

San Juan del Sur by steamboat and stage, and this route was much travelled by emigrants between California and the East, until in 1856 the Nicaraguan government declared the company's concession forfeited for non-compliance with terms.[42] The stage route of the Accessory Transit Company appears to have been the only one feasible for wheeled vehicles at the close of our period, poling up the rivers and crossing the divide over mule paths being the usual procedure. As stated, it was not till 1855 that a railway finally spanned the isthmus and joined the oceans by a modern means of transportation.

In conclusion, two points which are perhaps not sufficiently emphasized in the preceding should be called attention to. In the first place, any isthmian railway was generally regarded even by adherents as a more or less temporary expedient. It was believed that a railway would fill a great and rather sudden need, and at the same time would stimulate commerce till a ship canal became a necessity. A canal was the ultimate goal.

In the second place, the close connection between these isthmian projects and the great movement for a railway to the Pacific which should lie within our own territory is noteworthy. A glance at the map[43] shows that the continent of North America and the Central American region were fairly barred with a series of westward extending railway projects, all having the same goal—the Pacific. Naturally the earliest developments came where there was the least resistance, and that was at the narrow isthmian region. The first Pacific railway was an isthmian railway; but before that particular project was conceived greater plans for a trans-continental railway had been evolved, and in little more than a decade later these plans were carried out. To trace the growth and consummation of this greater, trans-continental branch of the movement for railways to the Pacific is the object of the following chapters.

---

[42] See *Rep. of Isth. Can. Com., 1899–1901,* pp. 46–49.

[43] See below, p. 433.

PART II.—TRANS-CONTINENTAL LINES

CHAPTER XXI

GROWTH AND ORIGIN OF THE PACIFIC RAILWAY IDEA

Forces Leading up to the Idea

Between 1840 and 1850 the movement of population affected the railway question in a two-fold manner through the remarkable growth of immigration from Europe and of emigration to the Pacific coast. In 1845 the number of immigrants was, in round numbers, 114,000; in 1847 it was nearly 235,000; in 1849 it was over 297,000. This great increase impelled westward emigration, while at the same time it resulted in an urban congestion that caused statesmen to reflect on a railway to the Pacific as a relief measure. About the year 1839 the emigration to Oregon began and missionaries and farmers succeeded the fur-traders. This emigration culminated in the treaty of 1846, by which the United States acquired undisputed possession of the Columbia river territory, but meanwhile there had been talk of war and plans for binding this far off land to ourselves had been numerous. The outbreak of war with Mexico led to the conquest of California and long before the issue was formally decided it was common to count the northern part of Mexico as our own. Later, gold was discovered, and before 1850 over 80,000 emigrants had poured into California.

The great problem lay in the necessity for an efficient means of communication. Military expediency and a demand for mail service brought this matter directly home to the govern-

ment, and the likelihood of the establishment of a separate government on the other side of the Rockies made the transportation subject of great national moment. As early as 1846 a writer in the *American Railroad Journal* sums up the subject thus: "The adjustment of the Oregon question, the continued movement of emigrants toward the Western ocean, the conquest of California, and the prospect that the northern provinces of Mexico may eventually form part of the Union, lend new importance to the idea of a railroad between the Atlantic and the Pacific."[1]

Add to the preceding a strong desire to participate in the Asiatic trade, which it was thought would come with a Pacific railway, and a fairly complete outline of the forces leading to the idea is obtained.

It was most natural to turn first to isthmian projects—for these there had been a long historical development, while at the isthmus but a few miles separated the oceans—and this was done; but a strong national spirit would not be content with this. A railway national in every sense was demanded; it should proceed direct to Oregon or to California over United States territory; it should be removed from danger of being commanded by the guns of hostile fleets or fortresses. Moreover, the desire of settling and developing the lands lying west of the Mississippi river added to the strength of the movement for a trans-continental Pacific railway.

None of these facts or forces, however, would have been very immediately effective had it not been for recent developments in railroad technique. Between 1840 and 1850 much was done toward perfecting the railway and its possibilities came to be better understood. The railway net was gradually extended and consolidation began to appear. The manner in which this extension suggested a Pacific railway is well illustrated by an item in the *Journal* just quoted. The writer tells how the people of St. Louis had projected a railway to Fayette, a hundred miles west of the Mississippi, and adds, "It is thus that our Western brethren are supplying the link of that great chain of railroad communication, which before the end of this century,

[1] Nov. 28, 1846.

will probably be unbroken between the Atlantic seaboard and the farthest limits of habitations in the West. The Atlantic and Pacific Railroad will one day be the name of that splendid whole, of which the Baltimore & Ohio Railroad is now one of the parts."[2] It is the old question of demand and supply in other terms, and between 1840 and 1850 the supply of railway transportation became adequate to at least actively suggest the filling of the demand for an efficient means of transportation to the Pacific.

The Birth of the Idea: 1835-1845

The birth of the Pacific railway idea is surrounded with obscurity. Like the invention of the locomotive, it is to be regarded as an evolution, not of a "nation of engineers," but of a generation of men who dwelt in an expanding country where horizons were broad. Before the railway era there were plans—little more than dreams—of a route to the Pacific. President Jefferson had such an idea in sending out the Lewis and Clark expedition in 1804. So Senator Thomas Benton said in a speech on the Panama Railway Bill,[3] and at the same time he claimed Jefferson's mantle for his own shoulders. Benton's claim as a pathfinder for Pacific railways rests upon certain essays written by himself at St. Louis in 1819. In these essays he refers to the Lewis and Clark expedition as demonstrating the feasibility of a communication across the continent, and states: "The rivers Columbia, Missouri, and Ohio form this line, and open a channel to Asia, short, direct, safe, cheap, and exclusively American, which invites the enterprise of American citizens, and promises to them a splendid participation in the commerce of the East."[4] Benton would have us believe that for thirty years he pondered in silence a great plan for this channel to Asia.

When the railway came it soon began to figure in men's dreams of a road to the Pacific. It would seem that as early as 1834 Dr. Samuel Bancroft Barlow of Granville, Mass., wrote

[2] *American Railroad Journal*, Feb. 20, 1836. V: 100.

[3] *Cong. Globe, 1848-49*, XX, 398 ff.

[4] Quoted in a pamphlet entitled *Letter from Col. Benton to the people of Missouri*, Washington, D. C., Mar. 4, 1853, p. 20.

certain newspaper articles advocating a Pacific railway and proposed that the government undertake its construction.[5] There was discussion of the matter in several contemporaneous papers.

An item in the *American Railroad Journal* for 1836 concerning an "Atlantic and Pacific Railroad" which has just been quoted is of interest in this connection, as an early definite expression of the Pacific railway idea.

In a memorial to Congress presented in 1849, Dr. Hartwell Carver claims to have been the first to have conceived the plan for a railway to the Pacific.[6] He states that as early as 1837 he had spoken and written on the subject, and presents several sworn statements in support of his claim. Carver's project will be further discussed. His right to the distinction of being the first to formulate any definite scheme for a Pacific railway seems rather clear.

Of no little significance is a passage in a volume written by the Rev. Samuel Parker about 1835 and published in 1838. In recounting his travels as a missionary west of the Rocky Mountains, he stated: "The passage through these mountains is in a valley, so gradual in ascent and descent, that I should not have known that we were passing them, had it not been that as we advanced the atmosphere gradually became cooler * * * . There would be no difficulty in the way of constructing a railroad from the Atlantic to the Pacific ocean; and probably the time may not be very far distant, when trips will be made across the continent, as they have been made to Niagara Falls, to see nature's wonders."[7] Parker's words attracted considerable attention and as a practical piece of information by an actual observer doubtless gave an impetus to thoughts of a route to the western coast.

Growth of the Idea in Congress and out: 1845–1850

Thus far we have been dealing with mere dreams or ideas hardly to be called projects, though the existence of long con-

[5] For references and details see Smalley, *Hist. of the N. Pac. Ry.*, p. 51 ff., and Davis, *The Union Pac. Ry.*, pp. 14-15.

[6] Pamphlet, Washington, D. C., Jan. 1, 1849.

[7] *Jour. of an exploring tour beyond the Rocky Mts. etc.*, made in 1835-36-37, pub. at Ithaca, N. Y., 1838, p. 73.

tinued isthmian schemes should be remembered. During the ten years prior to 1845 the idea of a trans-continental Pacific railway was born, from 1845 on it became firmly established and grew rapidly. The editor of the *American Railroad Journal* under date of March 6, 1845, writes, "We meet with this magnificent project in almost all our exchange papers." At the great convention held in 1845, at Memphis, Tenn., a railway across the continent was a topic of much discussion. Here Col. Gadsden advocated such a road[8] and De Bow tells of other agitation to the same effect.[9] In 1847 Professor Forshey, referring to commercial losses on the Gulf, the extent and fertility of the Mississippi valley, and the advantage of diverting the world's commerce, proposed "a great railroad from the Atlantic at Savannah and Charleston to the Pacific at Mazatlan, near the south extreme of the Gulf of California, to be constructed by private stockholders, the United States being a shareholder, for military, mail, and other national purposes."[10] Forshey's article attracted much notice, as he opposed Asa Whitney's scheme, of which more later.

So much for developments outside of Congress.

For a narrow congressional history a beginning might have been made with the first appearance of a Pacific railway project in Congress; and, indeed, as the first Pacific railway was to be constructed by government assistance, a general history with a practical bent might be begun with that plan which first progressed so far as to engage the attention of the national legislature. If this were done, we would begin at the point now reached and at once take up a discussion of Asa Whitney's scheme for a railway from Lake Michigan to the mouth of the Columbia as set forth in a memorial to Congress presented in 1845.[11] This was the first project to be worked out in detail and presented to Congress as a working scheme for the immediate construction of a Pacific railway. It should be observed that Whitney conceived of a railway across the continent at

---

[8] *De Bow's Commercial Review*, III, 147.

[9] *Ibid.*, I, 23-24.

[10] *Ibid.*, III, 475-483.

[11] *Sen. Docs.*, 1844-45, III, No. 69. Whitney's project is discussed in detail in the following chapter.

least as early as 1842 in connection with a trip to China, in the trade with which country he was interested; and he states that when in 1830 he traveled over the Liverpool and Manchester railroad (Eng.) he predicted the future importance of railways as a means of communication with the Pacific.[12]

In 1846 the memorial of George Wilkes praying the adoption of measures for the construction of a national railway from the Missouri river to the Pacific ocean was presented.[13] Wilkes was the first to propose to Congress and advocate the construction of a government railway to the Pacific. At the same time eight memorials of citizens of New York were presented to the same effect as that of Wilkes,[14] and they thus seem to have been in support of the latter's petition.

Next in order came Robert Mill's memorial "respecting a new route to the Pacific ocean, with a plan for the transportation of despatches to Astoria in fifteen days."[15] Mill's principal idea concerned a telegraph line from the Rio Grande to the Gulf of California, or San Diego; but his plan also included a "permanent road way" over the same route.

At the 1851–52 session of Congress, the Senate committee on public lands referred to Mill as having examined this matter carefully and given many years to arousing public interest.[16] The report is accompanied by a memorial in which Mill mentions "advantages, commercial, political, and religious" of a communication by railway and telegraph with our Pacific coast possessions; and he presents a topographical map to show the superiority of his route over that via South Pass.

Hartwell Carver's memorial has been mentioned[17] above as containing evidence that he early entertained a project for a Pacific railway. This memorial only came before Congress in 1849, however; hence it is not until this relatively late date that Carver appears in the congressional history of railways. In February, 1849, two memorials—one by the citizens of Troy,

---

[12] *Sen. Docs., 1845–46,* IV, No. 161, p. 2.
[13] *S. J., 1846–47,* p. 57.
[14] *Ibid.,* p. 58.
[15] *Sen. Misc., 1847–48,* No. 51. See map, p. 433.
[16] *Sen. Rep., 1851–52,* II, No. 344.
[17] Above, p. 403, *S. J., 1848–49,* p. 141; and again *S. J., 1849–50,* p. 110. For a discussion of Carver's project, see below, p. 422, ff.

another by those of Attica, both in New York—were presented in support of Carver's project.[18]

Almost simultaneously with Carver's memorial came one from Ebenezer Allen and other citizens of Texas, praying a grant of right-of-way over the public lands for the construction of a railway from the Rio Grande to the Pacific ocean,[19] a project obviously to be associated with that of Robert Mill. This memorial was referred to the committee on public lands and ordered printed, but no further action appears. And another plan for the development of the southern route was that of Dennis Keenan, who, in 1849, petitioned Congress for a grant of land and the right-of-way for a railway and telegraph line from Point Isabel, on the Gulf of Mexico, to the Pacific ocean.[20]

The Idea Becomes Generally Accepted: 1850

We have seen when the idea of a trans-continental railway, was born, and when and how it grew. Our conclusion is that by 1850 it was firmly established. Looking back at the movement, both in Congress and out, it is clear that the construction of a railway to some point on the Pacific coast was generally accepted as a work of the near future by the close of the first half of the nineteenth century. The growth of the country demanded it, and Congress had been besieged by many memorials for many projects. In the debates over the various plans the question had come to be, not, is a railway to the Pacific feasible, but, what means for constructing such a railway shall be adopted and what route pursued. In 1846 a committee on roads and canals could report that the construction of a railway of such length and situation was not to be thought of: "one thing appears to this committee as absolutely certain, and that is, that to construct a railroad of near 3,000 miles in length, across an uninhabited country, and passing over mountains the lowest pass through which is at an elevation of 7,500 feet above the level of the sea, is a project too gigantic, and, at least for the

[18] *S. J.*, *1848-49*, pp. 198, 258.

[19] *Ibid.*, p. 146.

[20] *S. J.*, *1848-49*, p. 232. Point Isabel is near the mouth of the Rio Grande (see map)

present, entirely impracticable. A road of such length and through such a country, has never been attempted in any age, or in any nation, known to history."[21] It was further argued that the completion of an isthmian road might any day deprive a trans-continental line of its utility.

The report of another committee on roads and canals made some five years later tells another story: it favors Whitney's project and refers to favorable committee reports and the action of the legislatures of some eighteen states in its favor. Public meetings throughout the country had enthusiastically supported it, and from the frequent expressions of the press the committee judged that the opinion of the country was almost unanimously concentrated on this plan. Accordingly the conclusion was highly favorable.[22]

Whatever might be said about any particular project, it is certain that the close of our period marks the assurance of a trans-continental Pacific railway.

Asiatic Trade and Pacific Railways

The importance of the Pacific trade, and especially that with China, as a force working for the construction of a trans-continental railway is difficult to realize. The article, speech, or memorial that did not refer to this subject when mentioning a possible Pacific railway was the exception. It was the burden of Benton's essay of 1819, "a splendid participation in the commerce of the East" being his goal. It was Asa Whitney's idea that his railway "would give us the entire control of the commerce of Europe with all Asia, and increase our own far beyond the power of the imagination to estimate." At the Memphis convention it was urged that "the vast trade of the Pacific would flow through the California terminus of the road."[23] It was quite common in memorials and speeches pro and con to present tables of distances by the various routes under con-

[21] *Rep. of Com., 1845–46,* IV, No. 773. Whitney's project was under consideration, but the reasoning here was of general application.

[22] *Sen. Rep., 1849–50,* No. 194. Other early reports were less opposed and later ones less favorable than those cited, but this has been considered and the comparison adopted is valid evidence.

[23] De Bow, I: 23–24.

sideration from London, New York, Charleston, and other points to Canton and Shanghai, the object, of course, being to prove a saving in distance and time. The United States was to profit not only by direct trade with the Orient, but indirectly also by her position on the new route thence to Europe.

One of the most striking of all the writings on this subject is a reference to the Orient made by Lieutenant M. F. Maury in a letter written in 1848 to Mr. T. Butler King, Chairman of the committee of Naval Affairs. He states, "it is difficult to overrate the value and importance to the Republic of a safe and ready means of communication through California with those people. * * * The Ilander (Islander) will cease to go naked, the Chinaman will give up his chop-sticks, and the Asiatic Russian his train oil, the moment that they shall find that they can exchange the productions of their climate and labor for that which is more pleasing to the taste or fancy."[24] To us this sounds extremely naive, but it was taken with much seriousness in those days.

Without further detail, it may be concluded that the commerce of the Far East furnished one of the strong incentives. It almost seems that men still had dreams of a golden Cathay, and some of these are comparable to the visions of the fifteenth century Europeans who sought a Northwest Passage. Others, however, had more sober aims, and Whitney's project was based on a practical first-hand knowledge of China and the Asiatic trade.

The whale fisheries of the Pacific, too, were no dream, and products of this industry formed a part of that "commerce of the Pacific" so frequently referred to in connection with isthmian and trans-continental railway projects.

---

[24] Appended to a pamphlet entitled, *Circular to the Citizens of the U. S.*, p. 22.

CHAPTER XXII

PRIVATE PROJECTS

The various projects for a trans-continental Pacific railway, whether brought before Congress or not, group themselves into two classes: one class of projectors desired the aid of Congress in constructing a road which was to be of a more or less private character; another class—one that became prominent just before 1850—would have had Congress itself prosecute the work directly or indirectly and make a national road. This chapter will discuss the former class, and take up in some detail the more important projects for a private railway to the Pacific which came before Congress down to 1850.

Asa Whitney's Plan

Earliest and most important of these was Asa Whitney's project for a railway from Lake Michigan to the Pacific ocean, which he presented to Congress, January 28, 1845.[1] In this memorial he referred to a chain of transportation facilities that was being extended from the east coast to the southern shore of Lake Michigan and argued that to push a railway on westward from this point would "produce commercial, political, and material benefits, which must be seen and felt through all our vast Confederacy," while, "to the interior of our vast and widely spread country it would be as the heart is to the human body." Long study of the subject had led him to believe that the route was practicable.

The rapid settlement of public land in Wisconsin caused him to transfer his eastern terminal from Lake Michigan to Prairie du Chien, on the Mississippi River, and, later, the development

[1] *Sen. Docs., 1844-45*, III, No. 69.

of keen sectional rivalry led him to broadly propose a road from some point on the Mississippi to some suitable harbor on the Pacific. In a circular letter, dated at Washington, 1849, Whitney stated that Mr. Foote would offer to amend his plan so as to construct a branch to San Diego; while the accompanying maps will indicate how he was induced to consider "Southern" and "St. Louis" routes in addition to the original northern route.*

Whitney always favored a railway over a route similar to that originally proposed, however, for here sufficient public lands were available, abundant timber and food supplies were at hand, and access, by way of the Great Lakes, to all Atlantic cities and to the iron production of Pittsburgh was easy.[2]

At first, Whitney proposed government ownership and operation for the road, but soon conceding that such power might be exercised "as a political engine" and so endanger our institutions of government, he suggested in his second memorial that its operation be secured by a contract with himself,[3] and thereafter advocated private ownership and operation with a great many restrictions and adequate government control.

The total cost he at first estimated at $65,000,000. Later he placed the cost at $68,400,000, basing his estimate on the following items:[4]

A good road and turnouts, at $20,000 per mile	$40,600,000
Repairs, operating expenses, machinery, etc.	20,000,000
Land to the amount of 78,000,000 acres at 15 cents	7,800,000
Total	$68,400,000

To raise so great a fund it seemed that the government must aid, and so Congress was asked to grant a strip of land 60 miles wide, extending 30 miles on each side of the line, from lake to ocean, making a total of some 77,952,000 acres, according to Whitney's estimate. These lands were to be held and set apart expressly to furnish, by their sale and settlement, means for constructing the road. Whitney was to survey and construct the first ten miles of railway at his own expense; then, if the work was deemed satisfactory, he would at once receive one-

* Below, p. 434.

[2] *Sen. Docs., 1845-46*, IV, No. 161, p. 4.

[3] *Ibid.*, p. 7.

[4] *Sen. Misc., 1847-48*, No. 28, and circular letter appended to *Rep. of Com., 1849-50*, No. 140.

half of the reserved lands adjacent to the ten miles of completed road—or a strip five miles wide and sixty miles long with which to reimburse himself and begin the next ten miles. The other one-half was to be held by the government. This process was to be continued until eight hundred miles should be covered, at which point he considered that the land became poor and of too little value to defray cost of construction. Then the half of the lands which had been held by the government as the road was extended by ten mile increments over the good lands should be sold under the direction of Congress, and the proceeds—together with any surplus left from previous sales—be applied to the construction of the road through the remaining distance to the Pacific.[5] The road and the machinery were to be held by the government as security for the completion of the line.

In this third memorial, Whitney agreed that when construction was so far advanced that security could be given he would pay sixteen cents per acre for all lands set apart for the work, but he considered this more than their actual worth at the time and in 1850 a bill which supported his scheme proposed a payment of ten cents per acre.[6] In case lands within the sixty-mile strip, adjacent to the line, had already been legally entered, the bill provided that other land might be taken in its place.

A two-hundred foot right-of-way was to be given. Timber, fuel, stone, and the like might be taken free from unsold government lands.

The character of the railway to be constructed is interesting. So grand and important an undertaking must be carried through in no mean style, and it was specified in this bill of 1850 that the road should be "according to the best plan of construction of railroads in the United States at the present day, with a single track, on a gauge or width not less than six feet, and with an iron rail of not less than sixty-four (64) pounds to the yard."[7]

As already stated, Whitney desired governmental control. The time for completing the road was limited; the first one-third to be done in nine years; the second, in six years more; and the

[5] *Sen. Misc., 1847–48*, No. 28.

[6] *Rep. of Com., 1849–50*, No. 140, p. 43, ff. sec. 2. For a criticism of this bill see below p. 418.

[7] *Rep. of Com., 1849–50*. No. 140, p. 43, sec. 4.

entire line completed and ready for use in twenty-five years. If Whitney should neglect to prosecute work for insufficient reasons the grant might be revoked; but, in that case, he was to possess all land along the extent of road already done.[8] Congress was to direct the method of selling lands. But, above all, the right to regulate tolls was reserved, subject only to the condition that enough should be charged to cover "repairs, operation, and necessary expenses." Indeed, the bill referred to provided that rates of toll should yield merely enough to pay expenses of maintenance and operation; but if in constructing the line an outlay in excess of receipts was incurred tolls might be raised to make good the deficit. Moreover, the transportation of the mails, troops, and munitions of war would be subject to regulation, and domestic mails would be transported free. In short, the road would be "a national road, still built and carried on purely as an individual enterprise, without any government, political, or party machinery or influence."[9]

The rates which Whitney, in his memorials, agreed to put in force were remarkably low. The rate on general merchandise for distances of 200 miles or over was to be .5 cents per ton[10] per mile, and for distances less than 200 miles, one-half the rates charged on the principle roads in this country. Corn would be transported at 20 cents per bushel,—inasmuch as it would be exported to China in large quantities,—and flour at $1.25 a barrel. Passenger rates, too, were to be but one-half those in force on other roads. These low rates emphasize the social side of Whitney's plan, and, assuming them to be *bona fide*, increase his claim to disinterested motives.

It is interesting to observe that the proposed reductions probably give some idea as to what was believed to be the proportion of expenses to income in those days, and that Whitney thought that one-half the usual rates would cover expenses.

At this point it might well be asked, what gain was Whitney to realize from his project. In addition to the provision that tolls should cover costs of construction, the bill provided that

[8] *Ibid.*, sec. 18.

[9] *Sen. Misc.*, 1847-48, No. 28, and for rate provisions see also sec. 11 of the bill above cited.

[10] 2,000 pounds.

a $4,000 salary for Whitney or his assigns should be included, as payment for their superintendence.[11] But more important was that part of the plan according to which Whitney would retain for himself any surplus that might remain. When completed, the road itself, the machinery, and any land or proceeds of land sales remaining above costs were to be vested in Whitney and his heirs and assigns, being liable, however, as security for payment for the lands set aside.[12] Thus, though the road was to be operated so as to yield mere wages of superintendence, if the lands bought for ten cents per acre could be sufficiently enhanced in value, a considerable profit might accrue to the projector.

Critical Examination of Whitney's Plan

Whether regarded from the standpoint of private gain or public utility, the essence of Whitney's scheme was enhanced land values. The lands reserved by the government would be greatly increased in value by the construction of the road and his whole recompense was to come from a surplus which depended upon the profitable sale of land. Whitney himself wrote: "I base all my calculations upon the only possible means, the wilderness land, by which the work can be accomplished at all on any route, therefore, the route must be where the road can bring into life and action this *only* means;" and again, "My object has been to find a route, the means for accomplishing which should be produced by itself."[13] The plan was a product of the time and has already become familiar in the preceding chapters on land grants.[14]

Back of enhanced land values, however, there lay the scheme of colonization, and this feature was certainly a weak spot in Whitney's project. The hoped for increase in the price of

[11] Sec. 11.

[12] *Rep. of Com., 1849–50*, No. 140, p. 43, sec. 10.

[13] *De Bow's Review*, IV, 166.

[14] The following from *Hunt's Merchants' Magazine*, XXIII, 124, illustrates the fundamental character of the idea: "Instead of going to the public treasury, or to Wall Street, or to London, for capital to build this road, and thus forever subjecting all transport thereon to a tax to satisfy the interest of the cost, the whole capital required on the Whitney plan, lies at this moment sleeping in the land through which the road is to pass . . ."

land was only to be brought about by opening it to settlement and by stimulating an effective demand for it. Whitney pictured a condition in which settlers would flock to the lands along his railway, keeping pace with its progress, furnishing labor for its construction and traffic for its support. He wrote: "It would open the wilderness to the husbandman, and take the products of the soil to all the markets of the world. It would make available and bring into market lands now too remote from civilization, and add millions of wealth to the nation. The labor of the now destitute emigrant would grade the road, and purchase him a house, where comfort and plenty would surround all."[15] This picture was hardly possible of realization, and with a failure to bring about the rapid sale and settlement of his land, its value would have failed of sufficient enhancement and the whole project ended in speedy abandonment or disaster.

Whitney's great difficulty lay in formulating his plan so as to secure reasonable insurance against the risk of the undertaking and, at the same time, give to Congress adequate guaranty that the road should be completed, and operated in the interest of the public. The undertaking was one of huge risk,—it was truly unprecedented,—and Whitney naturally desired all possible safeguards against loss; in order to secure the necessary aid, the demands of Congress must be met, and for a road of such national importance these were great. Thus, on the one hand, he was accused of being a hypocritical schemer seeking private gain under the cloak of a public benefactor; and, on the other, his plan was attacked as that of an impudent fellow boldly demanding aid for a private road.

This difficulty caused his bill to be so constructed that on several points its merits rested on Whitney's sincerity and honor. For example, what was to prevent his fraudulently increasing "costs" and raising rates till a handsome profit would result? The bill purported to guarantee that the road would be completed and might be taken over by the government in case of neglect to prosecute the work; but it also provided that in such a case the amount of road completed should vest in Whitney,

[15] *Sen. Misc.*, 1847-48, No. 28.

and what would prevent him ceasing to carry on the work as soon as it became unprofitable? Clearly, unless considerable faith were put in Whitney's integrity, and in the altruism of his motives, the scheme was open to grave objections.

The Plan in Congress

No important action was taken on Whitney's project until his second memorial was presented at the 1845–46 session of Congress,[16] when it came up for debate and was the subject of two long reports. The Senate committee on public lands was inclined to favor it.[17] Considering the broad commercial, industrial, and social aspects of the undertaking it concluded that it was worth a trial and that then was the time, for the fund of public lands, from which such a road *must* be constructed would be constantly diminishing. In the House the committee on roads and canals thought the project not feasible.[18] The natural obstacles, such as distance, mountains, snow, unsettled condition of the country were enlarged upon, and the possibility of the diversion of traffic by isthmian routes was mentioned. The committee was inclined to favor a water route via the Missouri and Columbia rivers, and recommended a survey. The animus of this unfavorable report no doubt came from Senator Benton, from whom the committee had sought advice.

When Mr. Breese introduced a bill to set aside a portion of the public lands to make a railway from Lake Michigan to the Pacific ocean, Benton at once began the bombastic, violent, selfish opposition to the measure with which he followed it to its failure.[19] He objected to the further reading of the bill. He would not be surprised to see persons offering to take the government off their hands. The idea was "absurd and ridiculous," nay, it was "a most impudent proposal." Several reasons might be given for this hostility. Benton sems to have been interested in an isthmian scheme. He was jealous of Whitney, and wished to secure the glory himself, for he soon came for-

[16] *Cong. Globe, 1845–46*, XV, 414.
[17] *Sen. Docs., 1845–46*, No. 466.
[18] *Rep. of Com., 1845–46*, No. 773.
[19] *Cong. Globe, 1845–46*, p. 1171.

ward with a rival project,—a project which would benefit his own state in which his proposed eastern terminal should lie.

When the third memorial was presented to the Senate in 1845, it was referred to the committee on public lands, which committee instead of reporting a bill in accordance, reported a joint resolution for the survey and exploration of one or more routes from the Mississippi River. Mr. Niles (Conn.), learning that the committee would not report a bill for Whitney, brought in one of his own, had it referred to a select committee of which he was a member, and naturally produced a very favorable report. Upon moving that the Senate take up this bill, Benton expressed his "astonishment," vouchsafed the information that he had studied the history of California long before Whitney had thought of it, and moved to lay the motion on the table. His opposition was successful, the yeas standing 27, the nays 21.[20]

At this same session, a communication from the representatives of Missouri in Congress, in favoring a land grant to the Hannibal and St. Joseph railroad, argued for a southern route and attacked Whitney's scheme;[21] while a House select committee on a railway to Oregon favored the scheme, stating that no donation of land was involved, but a sale, and remarking that such great enterprises are always opposed at first.[22]

At the second session of the thirtieth Congress (1848–49) Mr. Niles again brought the bill to set apart and sell to Asa Whitney a portion of the public lands for a railway from Lake Michigan to the Pacific Ocean up for discussion.[23] He favored it as a means of securing our hold upon California. Objection was made—by Mr. Borland (Ark,)—that other routes should be examined first, and an amendment was offered by Mr. Foote for a more southern route to San Francisco, or even San Diego.[24] This session marks the increase of sectional feeling over the location of the proposed railway to such a pitch that we can now see that Whitney's plan was already doomed, and Whitney later

[20] *Cong. Globe, 1847–48*, p. 1011.
[21] *Sen. Rep., 1847–48*, No. 178.
[22] *Rep. of Com., 1847–48*, III, No. 733.
[23] *Cong. Globe, 1848–49*, XX., 381.
[24] See above, p. 410.

strove in vain to trim the sails of his project to conflicting winds. In the House, the request of Mr. Pollock that his resolution for making a Whitney bill the special order for February 1, 1849, be considered, was refused;[25] and the Rockwell Report opposed Whitney's plan.[26] The route was too long; the land grant was too large; there was no wood, and no settlement; the Asiatic trade would not follow the road; and, finally, there was no assurance that it would be completed.

The bill introduced at the first session of the thirty-first Congress (1849–50) was a concession to sectional interests in that it did not insist on the northern route.[27] At this session there were two long and weighty reports which favored Whitney's project; one by Mr. Robinson of the House committee on roads and canals;[28] another by Mr. Bright of the corresponding Senate committee.[29] Both reports lay especial emphasis on the fact that the public showed much favor toward Whitney and his project. The House committee prefaces its report with a reference to "various and numerous resolutions, memorials, and petitions from state legislatures, the Chamber of Commerce of New York, large public meetings in several different cities of the Union, and different commercial firms and private citizens, in favor of the plan of Mr. Asa Whitney, of New York," and the Senate committee, in a similar strain, mentioned the almost unparalleled unanimity with which the public supported Whitney, saying "Your Committee believe, from the frequent expressions of the public press and from other sources, that the opinion of the country is almost universally concentrated on this plan."

However this may have been,[30] it is certain that *Congress* was far from unanimously concentrated on Whitney's plan. In the Senate debate arose over a resolution to print 5,000 copies of the report, which resolution was made the occasion for a discussion

[25] *Cong. Globe, 1848–49*, XX., 388.

[26] See p. 398, *Rep. of Com., 1848–49*, No. 145, p. 22, ff.

[27] *Rep. of Com., 1849–50*, No. 140, p. 43.

[28] *Ibid.*, p. 1 ff. This report is a valuable source for Whitney's project. It contains Whitney's three memorials, resolutions of State Legislatures, etc., and a documentary appendix.

[29] *Sen. Rep., 1849–50*. No. 194.

[30] See below, p. 421.

of the whole subject. It is significant that it was laid on the table by a vote of 83 to 51.[31]

In this discussion Senator Bowlin (Mo.) attacked Whitney's plan—as set forth in the bill—in a long speech, and as it is probably here that we find the best summary of those arguments which defeated the plan, it will be well to state the gist of his remarks.[32] He complained, in the first place, that the grant was too munificent; that when a state desired a donation of land she was treated more shabbily. As no particular route was specified in the bill, Whitney would have too great a latitude in locating the road, which would enable him to dictate terms to states and municipalities desirous of lying on the proposed railway and reduce them to a state of sycophancy toward "your congressionally created idol." The provision that rates might be raised to cover costs seemed to render futile the guaranty against high tolls supposed to lie in government control. Whitney's motive, he alleged, was to make money, and nothing prevented him from issuing great quantities of stock: the whole affair would become a gigantic stock-jobbing concern. Not only this, but foreigners would invest and secure control. The bill provided that when the road was constructed outside the limits of the then-existing states it should be exempt from taxation and that the exemption should continue after admitting new states along the road. Mr. Bowlin held that such a promise was beyond the power of Congress and unconstitutional as being an encroachment on state sovereignty. But most stress was put upon the objection that the plan "seemed to be formed with a peculiar view to create new franchises, preserve vested rights, and with an end to that perpetuity which was the peculiar characteristic of a private corporation." The bill would create a thing which the courts would declare a private sole corporation; it would be an irrevocable monopoly.

Finally, Bowlin argued that the grant was practically irrevocable because of the exceptions made to the section providing for a reversion to Congress in case of neglect, etc. "Congress debars itself from the power of repealing this wonderful act,

[31] See *Cong. Globe*, *1849-50*, XXI, Pt. I, pp. 549, 557.
[32] *Ibid.*, p. 329.

except in a few specified cases of neglect or refusal to go on with the work, and then the repeal vests in Whitney and his assigns the road, as far as it had gone, the implements, and the land proportioned to the length of the road made—and to that extent it was irrepealable forever." "Was any man within the sound of his voice gullible enough to suppose he (Whitney) had any idea of going on, out of the rich and partially settled lands, when he had framed in his bill a provision, that, by stopping the work it operated as a cause of forfeiture for *that to come*, but vested in him everything * * * in proportion to the distance gone?"

As pointed out in the critical examination of Whitney's plan, the essence of all these objections—save that of the constitutionality of exemption from taxation—was a disbelief, real or feigned, in Whitney's motives. Accordingly, a large part of a speech, made by Mr. Robinson in rebuttal to Mr. Bowlin, amounted to a defense of Whitney.[33] He maintained that Whitney was disinterested, and that he would gladly have it specifically provided that the courts should not interpret the bill as creating a perpetual corporation. He further stated that Whitney desired that the road should be owned and operated by the government, but that this was impossible, and the present plan for furnishing his own means as the work progressed was the only practicable one.

Beside this line of argument, his chief point was that Whitney did not ask for a donation, but was to pay for the land set apart for his railway. Referring to Whitney's scheme, he said: "I have alluded to its leading feature, which is, to show that Mr. Whitney was to *pay* at least four times what these lands were worth, *without* the road before he can realize a cent; and that if he is ever indemnified, it will be the result of his own enterprise and energy in making the road."

That the plan met with much ridicule is natural. One person asked if it could not be reasonably assumed that it would take one year to build ten miles of railway, another year to sell the lands, and three years more to collect the payment,—at which rate it would take eight hundred and fifty years to make seven-

[33] *Cong. Globe, 1849-50*, Appendix, Pt. I, p. 333.

teen hundred miles![34] More amusing is a proposal made by Mr. Douglas who had just received a memorial concerning aerial navigation. The memorialist was prepared to build a great balloon with which he would proceed to England and report to the British government. Said Mr. Douglas: "I hardly know to which committee I ought to move its reference * * * I am inclined to think that, as it is evidently a rival project to the one referred to the committee on roads and canals—Mr. Whitney's railroad—it ought to go to that committee, that its object may be considered."[35]

Whitney encountered much opposition from those who were interested in other schemes, especially from capitalists engaged in exploiting isthmian routes or in speculation in soldiers' land warrants.[36] There were powerful interests connected with the Pacific Mail Company, etc., which desired no diversion of trade by a trans-continental line; and at that time, speculation in soldiers' warrants for western lands was rife in the East. The grant of so great an amount of land as Whitney's plan involved would deprive such speculators of gain. These factors are mentioned, in addition to sectional jealousy, which, after all, was the great impediment.

Whitney's Motives and Service

When it comes to a critical estimate of Whitney's motives, our conclusion must be a favorable one. The very safeguards which he desired for his own interests are evidence that he was no crack-brained enthusiast, though we may well conclude that he was far too optimistic. It must be admitted that he was a remarkably unselfish man. He gave his fortune and some of the best years of his life to advancing a project from which he expected no great direct gain. The words which he uses towards the close of his second memorial are worthy of repetition: "It will be seen that your memorialist has not prayed for any pecuniary provision for himself until after the road shall have been

[34] *Sen. Misc., 1849-50*, No. 28, Appendix F.

[35] *Cong. Globe, 1850-51*, XXIII, 132. For further discussion of Whitney see *Cong. Globe, 1851-52*, Pt. II, p. 941.

[36] *Rep. of Com., 1849-50*, No. 140, p. 10.

completed and in operation for twenty years, before which time he will, in all human probability, be past the wants of this life. His object in bringing this project before your honorable body and the people is not for gain of wealth, or power, or influence, but because he has seen, and as he thinks clearly seen, its vast and incalculable importance to us as a nation, and to mankind."[37] Though Whitney was mobbed and ridiculed, he was very successful in winning converts to his project, and the number and character of these are strong evidence of the earnestness and sincerity of the man. Even Mr. Carver, who was a rival projector, seems to have had nothing but respect for Whitney and refers to his zeal as being worthy of the highest commendation. Further evidence to the same effect comes from Whitney's ability to rise above sectional prejudice.[38]

That Whitney considered measures calculated to insure him against loss is true; he was a man of some prudence and practical knowledge. That he sought the glory of the enterprise there is no doubt; that is fitting for a great man.

His activity was great. He traveled throughout the country advocating his project in writing and in speech. In 1848, he made a tour of the South, where, though at that time he proposed nothing but a northern route, he was successful in arousing interest and securing favorable resolutions from several state legislatures.[39] Indeed, by 1850, some eighteen different state legislatures had presented resolutions or memorials favoring Whitney's plan.[40] In summing up Whitney's service, we can do no better than to quote from the House committee on roads and canals, which found that: "Mr. Whitney has been unremittingly engaged, at his own expense, since 1841, in collecting information on this subject, * * * and that we are indebted to him for the origination of the project, for the maturity of the first plan, for the large amount of practical information he has brought to bear upon the subject, and for the awakening of public attention to its importance."[41]

---

[37] *Sen. Docs., 1845–46,* No. 161.

[38] See *De Bow's Review,* IV, 166; and above, p. 410.

[39] *De Bow's Review,* V, 89.

[40] *Sen. Rep., 1849–50,* No. 194. For examples, see *Rep. of Com., 1849–50,* No. 140, Appendix.

[41] *Rep. of Com., 1849–50,* No. 140, p. 1.

Hartwell Carver's Scheme

Contemporaneous with Whitney's propaganda there were several minor projectors in the field. Perhaps the most noteworthy of these was Hartwell Carver, already mentioned as an early advocate of a railway to the Pacific.[42] On January 28, 1850, Mr. Dickinson presented a memorial from Carver and his associates asking an act of incorporation and the aid of government to enable them to construct a railroad from Lake Michigan to the Pacific ocean.[43] The nature of his scheme was as follows.

Three propositions were made, the difference lying in the character of aid to be granted and the relation between the government and the finished road. The railroad was to extend west from either the Mississippi or Missouri river, or from Lake Michigan, and two branches were proposed, one to San Francisco and another to the mouth of the Columbia via South Pass. According to the first proposition, the government would sell the company 8,000,000 acres of the land lying within ten miles of the road at 50 cents an acre, taking payment in the company's stock. The second proposition was that, in addition to the $4,000,000 of stock received for the land, the government should take $8,000,000 worth of stock with the idea of securing equal control of the railway. This would "do away with all fears of monopoly, which some may raise as objections against a chartered company." In the third place, Carver proposed the grant of a strip forty miles wide along the road. The government was to survey and locate the railway, give right-of-way through the public lands together with materials for construction, and whichever plan was adopted the company would have a practical monopoly of the telegraph business to the Pacific coast.

Carver argued that without a Pacific railway we could hardly expect Oregon to remain in the Union, for representatives from that region could not make the trip to Washington between sessions. He also refers to the extent and fertility of the Columbia's basin.

---

[42] Above, pp. 403, 405.

[43] *S. J., 1849–50*, p. 110. Referred to com. on roads and canals, and no further action.

One of the most interesting features of Carver's scheme is the kind of railway he proposed to construct. Like Whitney's line it was to be built "on a grand and extensive scale." The rails must be such as would support the great burden of cars carrying two or three hundred tons (!) and they were to be laid eight or ten feet apart on a solid and permanent foundation. And the passengers cars, Carver wrote, would be "moving palaces, sixteen or twenty feet wide, and two hundred feet in length, containing births (!) for sleeping, kitchens for cooking, dining halls and parlors, affording to the passengers all the comforts of domestic homes, while they will be traveling fifty miles an hour in a still, quiet, and safe manner." Of course this description is but a freak yet the anticipation of sleeping, dining, and parlor cars is not without historical significance. The fact that both Whitney and Carver considered railways of broader gauge than the standard is evidence that the latter had not become firmly established.

P. P. F. De Grand and Others

Carver in his memorial complained that, while he and Asa Whitney were the only real pioneers, others had arisen as upstarts to share in their honor. The other projects which he mentions are those of George Wilkes, Aspinwall and Co., and William Bayard and Co. Wilkes desired a government road and his plan accordingly falls within the province of the next chapter; Aspinwall and Co. with their short isthmian road have already been treated: Bayard's plan, which involved the grant of a strip of land fifty miles wide, was not an original one and does not appear to have come prominently before Congress.

The project of one whom Carver does not mention seems to have been most important. At the first session of the thirty-first Congress, (1849–50), the petition of P. P. F. De Grand and others was presented.[44] The memorialists asked three things: first, a charter authorizing them to construct a railway and telegraph line from St. Louis to San Francisco; second, the right to borrow United States 6 per cent. stock to the amount

[44] *Cong. Globe, 1849–50*, XXI, Pt. I, p. 149; for details see *Sen. Misc., 1849–50*, No. 28.

not exceeding $98,000,000 for the purpose of constructing the road; third, a right-of-way and a grant of public land ten miles wide along the north side of the line. The capitalization of the company was put at $100,000,000, of which $2,000,000 must be paid in before the stock loan could be received.

De Grand's project was a purely private one. It seems to have attracted most attention in the East, and several mass meetings were held in Boston to consider it.

Proposed Extension of the Galveston and Red River Railway Company

The only private project for a railway to the Pacific which remains to be considered in a Congressional history is that of the Galveston and Red River Railway Company, for which the citizens of Texas memorialized Congress at its 1848–49 session.[45] The legislature of that state had chartered the company for constructing a railway from Galveston to the Red River, with a provision authorizing branches to any point in Texas; and the company now desired the right of constructing a continuation of a proposed branch over the public lands from the Rio Grande to the Pacific. They did not ask Congress to "exercise any *doubtful constitutional powers*, in making any appropriations to them, or for their benefit, either in *money, land, or any other thing of value.*"

[45] *Sen. Misc.*, 1848-49, No. 33.

CHAPTER XXIII

GOVERNMENT OWNERSHIP PROPOSED

While the above-described private projects were from time to time occupying the attention of Congress the idea of government construction and ownership was not without adherents. As observed in a previous chapter,[1] in 1845 the situation with regard to a Pacific railway was much the same as existed in the case of all railways in 1825. There was urgent public need for a bond of communication between parts of the nation. The undertaking was from its novelty and hugeness calculated to appeal to men as demanding government participation. Furthermore, repugnance toward allowing such an undertaking to fall into private hands was a factor for government ownership, and there was a well-developed hostility to monopoly which operated against the various private projects. In 1850 Pacific railways were felt to have a peculiarly national importance, and in order to complete the congressional history of railways it is necessary to take account of the proposals for a government road which then came before Congress.

Indeed, at the very earliest mention of a Pacific railway, government construction was suggested, for in 1834 Dr. Barlow wrote to that effect.[2]

Wilkes Memorial for a National Railroad

On December 21, 1846, Mr. Dix (N. Y.) presented the memorial of George Wilkes concerning a Pacific railway. Wilkes prayed the adoption of measures for the construction of a national railroad from the Missouri to the Pacific and his request

[1] Chap. VII, p. 256.
[2] See above, p. 402.

was supported by eight memorials from citizens of New York.[3] The memorial was referred to the committee on public lands and no report made. Wilkes advocated government enterprise because he believed that only in this way could adequate funds be obtained. With the public behind the undertaking and an official survey of the route, public lands would be so enhanced in value that capitalists would readily make investment.[4]

Gold and Government Railways

Wilkes' scheme for a government road seems to have antedated all others which came before Congress. His proposition was made before the importance of California was generally realized,—indeed, before that importance was great. Gold had not been discovered and a growing American population on the coast was unforseen. With the discovery of gold and attending developments the Pacific railway idea was rendered less difficult; the incentive for a government road increased. We see the direct working of the gold factor in a resolution submitted by Senator Houston (Tex.) It was proposed that a special committee report upon the expediency of a railroad constructed by the government from San Francisco to the Mississippi. The committee was also to estimate what amount of revenue would be yielded by a tax of 8 per cent. on all the gold to be mined in California during ten years, and report upon the expediency of using such revenues in building the road.[5]

Again, in 1850, Wm. Archer memorialized Congress to the effect that a public ship be stationed at San Francisco "to receive and safely keep all gold, to prevent it being taken out of the United States in an uncoined state; that the gold be bought for the United States; and that the portion of its value between $17 an ounce and the real value be applied to make a railroad" from Washington to San Francisco.[6] The memorial was referred to the committee on finance. That this plan met with serious attention seems probable, for it is referred to several times and

[3] *S. J., 1846-47*, pp. 57-58.
[4] Bancroft, *Hist. of Cal.*, VII, 502. Bancroft dates Wilkes' plan from 1845.
[5] *Sen. Misc., 1848-49*, No. 12.
[6] *Cong. Globe, 1849-50*, XXI, Pt. II, p. 1097. Also *Ibid.*, pp. 1124, 1839.

in a respectful way. No report upon the matter has been found however, and nothing came of it.

Benton's National Central Highway

Most prominent among advocates of a national railway to the Pacific was Col. Benton of Missouri.[7] Benton came from a section which expected great benefit from such a road; he represented that queer mixture of individualistic and socialistic tendencies which characterized Western nationalism; he was jealous of Asa Whitney's fame. With these factors at work he attacked all private schemes and fought for a national undertaking. Of Whitney he said, "I look upon all such applicants as jobbers, and repudiate them. * * * I go for a national highway, no stock-jobbing."[8]

He proposed that a strip of land a mile wide and extending from the western border of Missouri to the Pacific be reserved for the immediate construction of a single-track railway and a common road. Later all varieties of roads might be added—plank and macadamized roads, and even a railway operated by magnetic power. In the bill introduced at this time[9] 75 per cent. of the proceeds of public land sales in Oregon and California and 50 per cent. of the sales of other public lands in the United States were to be set apart as a fund for constructing "a central national road," which was to extend from St. Louis to San Francisco with a branch to the Columbia river. The proposed reservation for the branch was 1,000 feet wide. One hundred thousand dollars was to be appropriated for treating with Indian tribes, and military stations were to be established along the line. The opening of the route was to be the occasion for grants of land to settlers. It is significant that Benton's nationalism did not extend to government operation, for the bill provided that sections of the road when completed were to be let to individuals or companies under a stipulation for reasonable rates. In modern parlance government ownership with private operation was the program.

---

[7] See above, p. 402.

[8] *Cong. Globe, 1848-49*, XX, 472.

[9] *Ibid.*

Within two years Benton greatly enlarged the scope of his project by adding a branch to Santa Fe and increasing the land reservation to 100 miles for the main line (estimated 1,600 miles long) and 50 miles for each branch. More ample provision for funds was also made. These were to include all income from customs and sales of public lands in California, Oregon, New Mexico, and Utah, over and above expenditures in those regions; and for immediate use a loan based upon the hypothecation of this income was proposed.[10]

As usual Senator Benton was supported by colleagues and constituency. Mr. Bowlin presented a long set of resolutions in favor of a national way;[11] and, more important, the legislature of Missouri memorialized Congress in behalf of a "Central Pacific Railroad." "It is fair to the character of our government, to the practical usefulness of our institutions, and to the wants of our people, that such a work should be carried into effect at the earliest practicable period. * * * Its objects are national, and its execution should be exclusively national, and we do not hesitate to recommend and urge upon your honorable body such legislation, by appropriations of land and money, as may be necessary to carry it into operation."[12] That this memorial indicated some considerable public sentiment is evidenced by the fact that in 1850 a memorial by the national railroad convention at St. Louis (1849) was presented "praying the adoption of measures for constructing a national railroad."[13]

Benton's plan embodied many different means of transportation and question arises as to the reason for this. For one thing Benton seems to have yearned for "a plain old English road." He and his constitutents had been accustomed to such all their lives, and on them a farmer could ride or drive his cattle free of charge with "none to run over him, or make him jump out of the way under the penalty of being crushed." How much of this sentiment is to be attributed to sincere conservatism, and how much to demagoguery cannot be said. In either case it is significant of time and place.

---

[10] *Cong. Globe, 1850-51*, XXIII, 56.
[11] *Cong. Globe, 1849-50*, XXI, Pt. I, p. 413.
[12] *Sen. Misc., 1849-50*, No. 25.
[13] *S. J., 1849-50*, p. 47.

In the second place there was the idea of fostering competition. Tracks were wanted for many railways and roads, for there could be no monopoly on such a mighty line of travel. Even in the case of telegraph communication two margins were to have been reserved for "independent and rival telegraph lines."[14]

Walker's Incipient Measures

In March, 1850, Senator Walker obtained leave to bring in a bill (Sen. No. 158) "to provide the incipient measures necessary for the construction of a railroad from the Mississippi river to the Pacific ocean."[15] He dwelt upon the great obstacles to be encountered in building a railway over such regions and argued that adequate examination and survey be made first. The scheme involved free grants of land to settlers along the road as being the only means of attracting a supporting population and to this end government construction was necessary.[16]

Such, in brief, is the history of those projects for a government Pacific railway which came before Congress down to 1850. Little is to be gleaned from it save that Congress not only did not take up such projects, but did not consider them seriously enough to devote much discussion to them. Asa Whitney's conclusion that a government railway was not desirable in connection with our political institutions was the prevailing belief.

---

[14] For this and preceding quotation see *Letter from Col. Benton to the People of Missouri*, Pamphlet, Washington, D. C., Mar. 4, 1853. p. 95.

[15] *S. J., 1849–50*, p. 214.

[16] *Cong. Globe, 1849–50*, XXI, Pt. I, 539.

BIBLIOGRAPHICAL NOTE

Though the basis of the present work lies entirely in Congressional material, certain other works have been of service and frequent reference to them has been made in foot notes. Most helpful have been *Niles' Register*, *Hunt's Merchants' Magazine*, and *De Bow's Review*, respectively. To follow contemporaneous events in this way gives perspective, serves in some cases as a check, and often supplements Congressional material.

Next should be mentioned a group of books and monographs dealing with the history of railways and the development of railway technics, etc.:—

Armroyd, Geo., *Internal Navigation of the United States* (Phil., 1830)

Brown, W. H., *Hist. of the First Locomotive in America.*

Earle, Thos., *Treatise on Railroads.* (1830)

Meyer, B. H., *History of Early Railroad Legislation in Wisconsin.*

Mills, Robt, *A Treatise on Inland Navigation.* (Balt. 1820)

Poor's Manual, 1868–69.

Ringwalt, J. L. *Development of Transportation Systems in the United States.*

Stevens, John, *Documents tending to prove the superior advantages of Railroads.* (N. Y., 1812)

Stimson, A. L., *History of the Express Cos.* (N. Y. 1859)

Strickland, Wm., *Report on canals, railways, roads, etc.* (Phil., 1826)

Tanner, H. S., *Canals and Railroads of the United States.* (1840)

Thurston, R. H., *A History of the Growth of the Steam Engine.*

Watkins, J. E., *Development of the American Rail and Track.*

Wood's *Treatise* on railways (Ed. 1831) was quoted as authority in Congressional discussion. Two monographs

which appear in the *John Hopkins University Studies* are of much value in this connection: one on the *Economic History of the Baltimore and Ohio Railroad* by Reizenstein, to be found in Vol. XV. of the *Studies;* the other on the *Early Development of the Chesapeake and Ohio Canal Project,* in Vol. XVII.

Much might be said concerning the Congressional material. In the first place, while the aim has been to make the present monograph as exhaustive as is reasonably possible, it can not be confidently said just what degree of completeness has been attained. Indices are necessarily depended on in handling so great a mass of material and if the index is incomplete or imperfect such is likely to be the case with the work. Much care has been taken, however, to run down any reference or implication which hints at undiscovered material: and in some cases material has been discovered through secondary works. In a few instances, chance has been of service.

The method of working through the sources has been as follows. The *House* and *Senate Journals* are gone through by index, the headings, Roads, Railways, Internal Improvements, Public Lands, Pacific, Whitney, Baltimore and Ohio, etc., etc., being scrutinized. In one case material on Pacific railways was found by looking up "Oregon" which was the only place it appeared. In the *Journals* one finds an outline of the course of the bill, memorial, or resolution, or the vote upon it if one is taken. In most cases little but the general title of the measure appears. Next the *Debates of Congress, Congressional Globe,* or *Congressional Record* are consulted and here in many cases the debates upon the various proposals are found. Though not so accurate as the *Journals* the various records are much more satisfactory.

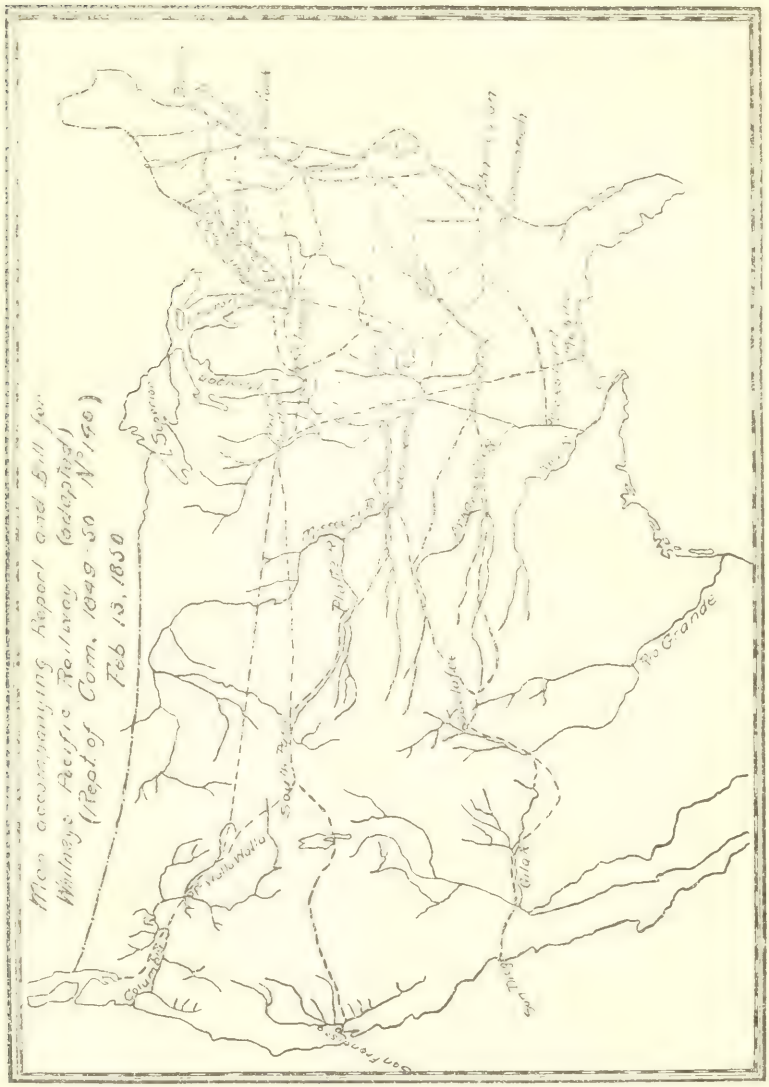
Meanwhile various resolutions and memorials have been referred to appropriate (?) committees—on Roads and Canals,—Public Lands etc.,—and the reports of committees must be consulted. These may be found in *Executive Documents, Senate Documents, Senate Reports, Reports of Committees,* or *Senate* or *House Miscellanies.* Perhaps these reports are the most valuable source for such a work as the present. Here are found maps, statistics, and expert testimony (perhaps not unbiased).

For instance, a great deal of valuable information concerning early railroad construction, rates, etc., is to be found in the long *Executive Documents of 1831–32*, Nos. 18 and 101. No. 145 of the *Reports of Committees for 1848–49* (the Rockwell Report) forms a large volume and is an important source for the history of Pacific railways.

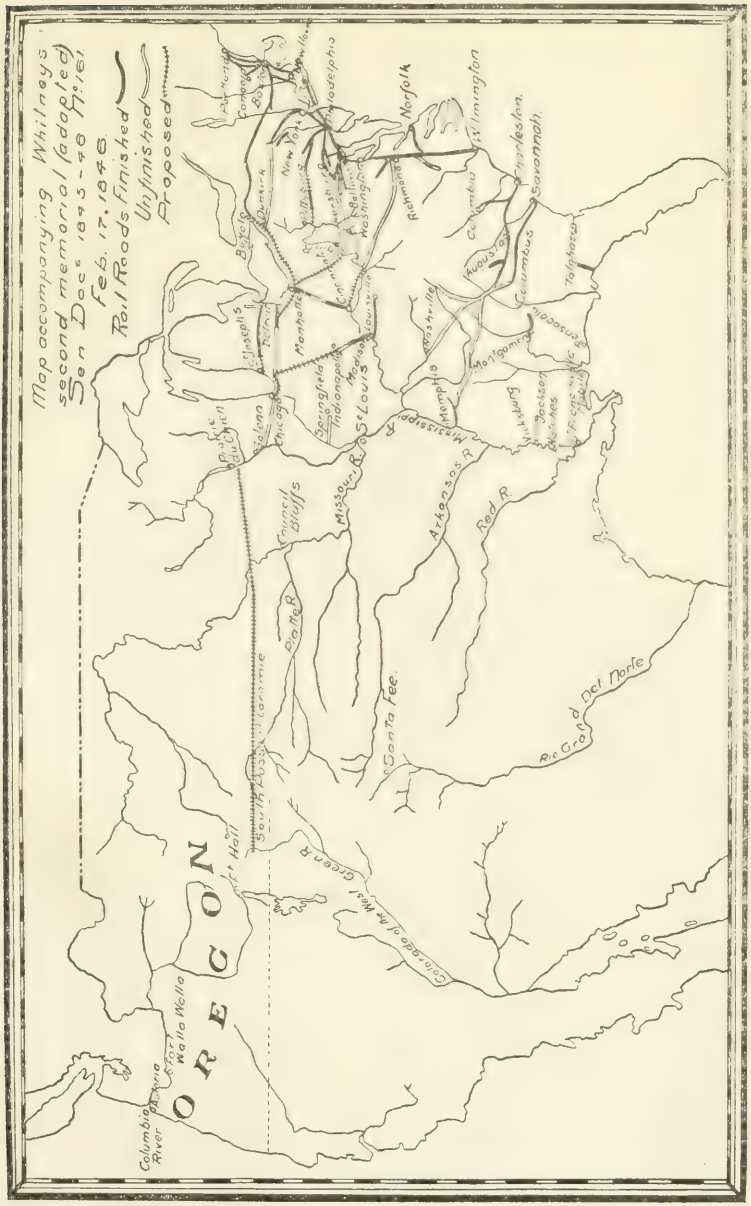
Certain congressional documents of a date later than 1850 are valuable as containing the history of earlier events. Thus the history of the railway mail service is fully treated in *Senate Executive Documents*, 48 Congress, 2d. session, No. 40; and the *Report of the Isthmian Canal Commission*, 1899–1901, Washington, D. C., 1901 (*H. R. 15*) gives much information concerning isthmian railways.

Finally, the acts of Congress have been consulted not only with the idea of securing their contents where desirable, but also of making sure that, at least, no measure that actually passed Congress has escaped.


MILL'S MAP
of the several Routes
Proposed
to the Pacific Ocean from
THE HEAD WATERS OF THE MISSOURI
to
THE ISTHMUS OF DARIEN
Columbia River
Astoria
Upper Route
Lewis River
Lake Tempanogo
Wyeth's Route
Santa Fe
St Diego
Guaymas
300 Miles
Mississippi River
St Louis
Cincinnati
Nashville
Memphis
Little Rock
Vicksburg
New Orleans
Mobile
Augusta
Charleston
Savannah
Washington
Philadelphia
New York
Boston
Mangoaa
Tehuantepec
Nicaragua
Panama
Darien
Porto Bello


Map accompanying Report and Bill for
Railway & Pacific Railway (adopted)
(Rept of Com. 1849-50 No. 150)
Feb 13, 1850
Rio Grande
San Francisco

[268]


Map accompanying Whitney's second memorial (adopted) Sen. Doc. 1845-46 Nº 61
Feb. 17. 1846.
Rail Roads finished
Unfinished
Proposed
Norfolk
Wilmington
Charleston
Savannah
Augusta
Columbus
Talahassee
Montgomery
Mobile
Vicksburg
Jackson
Natchez
Memphis
Nashville
Louisville
Springfield
Indianapolis
Terre Haute
Alton
Mississippi R.
Missouri R.
Arkansas R.
Red R.
Council Bluffs
Platte R.
Santa Fee
Rio Grande del Norte
Fort Hall
South Pass
Columbia River
Fort Walla Walla
OREGON

[269]

GENERAL INDEX[1]

Accessory Transit Co., The, 398.
Acworth, cited, 244.
Adams, John Quincy, 269, 331.
Aid, (See Government Aid).
Allen, Ebenezer, 406.
American Atlantic and Pacific Ship Canal Co., 398.
Archer, Wm., scheme for Pacific Railroad, 426.
Asiatic Trade, and Pacific Railways, 401, 407.
Aspinwall, W. H., 395.
Atmospheric railway, 201.

Ballagh, J. C., cited, 379, 381.
Baltimore and Ohio Railroad Co., 192, 293, 301, 319.
  Baltimore and Ohio vs. Chesapeake and Ohio, 218 f.
  Construction, 198, 199.
  Lateral Branch, 258.
  Rates, 207, 208.
  Stock subscription, 291.
Barlow, Dr. S. B., 402.
Bayard, Wm., 423.
Biddle, Col. Charles, 390 f.
Blacket, 181.

Camden and Amboy Railroad, 245 and note.
Canals, 224-227.
  Chesapeakae and Ohio, 218 f.
  Relation of railroads to, 226, 284.
  Illinois and Michigan, 222.
  Cost of Transportation, 207, 208, note.
  Stock Subscriptions in, 290.
  Land Grants to, 330.
Carver, Hartwell, 403, 405, 422.
Charleston and Hamburg Railroad Co., (See South Carolina Canal and Railroad Co.).
Charters,
  Rate Provisions of, 210-212.
  First railway, 189, 192.
Chesapeake and Ohio Canal Co., (See Canals).
Clinton, De Witt, 260.
Competition, 236, 242, 262, 321, 396, 429.
Corporations, 257, 280, 290, 305, 308, 315.
Cost,
  Of construction, 195-197, 199 (note), 234.
  Of transportation, 206, 207, 208.
  Rates based on, 214.
Cumberland Road, (See Road).

Davis, *Hist. of Union Pacific R. R.* cited, 403.
Dearborn, Benj., 186.
De Grand, P. P. F., Pacific Railroad, 423.
Dewey, D. R., cited, 382.
Dining cars proposed, 423.

Eastern States, 382.
Emigrants, 237, 400.
Evans, Oliver, 184, 196, 202, 206.

Fares, 208, 211-213, 245.
Financial conditions, and Congress' attitude toward railways, 223, 308, 322, 366 f, 370.
Forshey, Prof., 404.

Gallatin, 182, 185, 328 f.
Galveston and Red River Railroad, 424.
Garay, Jose de, 389.
Garella, Napoleon, 389.
Gauge, 198, 411, 423.

[1] See also Table of Contents.

Gold, Importance of Discovery of, 175, 393, 460, 426.
Government Aid, Chaps. VIII-XIX.
  Causes regulation, 177, 264, 325, 396.
  Condition of the Treasury and, 308, 322, 324, 367.
Government construction proposed, 251 f, 425 f.
Government Control, (See Regulation).
Government Experiment, 188, 217.
Government Ownership, 253, 256 f.

Hadley, A. T., cited, 175, 248.
Hargous, P. A., 397.
Hise, Elijah, 398.
Homestead Idea, 373; not in conflict with land grants, 374.

Illinois Central, Land Grant to, 363.
Internal Improvements,
  Early appropriations for, 294.
  General Fund, 268 f.
  History, 268 and note, 327 ff.
  Relation of Treasury conditions to, 308, 322, 324.
  Sectional interest and, 280, note, 343, 296, 377 f, 410.
Investment, by Government in Railways proposed, 255, 263.
Iron, Railway,
  England depended on for, 300, 303, 308.
  Growth of American manufactures, 299, 302, 310, 311.
  Import duties on, 298 ff, 310 f, 316; aid through remission of, 304, 316 (table).
Isthmian Projects, 386 ff.
Isthmian Railways.
  First railway, 397.
  Regarded as temporary, 399.
  Relation to Pacific Roads, 399, (See Isthmian Projects).

Jackson, Andrew, 247, 249, 255, 260, 322, 390.
Jefferson, Thomas, 182, 328.

Keenan, Dennis, Petition concerning a Pacific railroad, 406.
Kendall, Amos, 239, 261.
Kline, Mateo, 389.

Land Grants to Railways, Chaps. XIV-XIX.
  Analysis of forces, 364 f.
  Arguments concerning, 369, 376.
  Congressional philosophy of, 369 f.
  Donations other than right of way, 354 f.
  Early Proposals, 359.
  Early Grants, 327 f.
  First authorized, 360.
  Illinois Central Grant, 363.
  Pre-emption rights, 342 f; vote on, 343; significance of, 346.
  Proceeds of land sales, 348 f; 5 per cent to Mississippi and Alabama, 350; debate, 351.
  Proprietor idea, 330, 344, 370.
  Right of way, 332 f; first grant of, 335; general law, 337; significance of, 338.
La Trobe, 182, 184, 207.
Lobby, 312.
Locomotion, 200.

Madison, James, 186, 329.
Magnetic power, 201.
Mail Service.
  Railways supersede turnpikes in, 238.
  Proposed regulation, 246, 259 f.
  Aid through, 318 ff, 394, 400.
  Contracts in, 321 f.
  Free service rejected, 325.
Marshall, John, 383.
Mauch Chunk Railroad, 192, 202, 208.
Military relations, 193, 235, 253, 400.
Mill, Robert, memorial for Pacific railway, 405.
Million, quoted, 367.
Monopoly, 243, 257, 260, 395.
Monroe, James, 187.
Mt. Carmel and New Albany, 354 f.

National Road, (See Road).

Pacific Mail Co., 393, 420.
Pacific Railways, Chaps. XX-XXIII.
  Idea generally accepted, 406.
  Government ownership proposed, 256, 425 ff.
  Opposition to, 420.
  Origins of, 400 f.
  Private projects, 409 ff.
Panama, (See under Isthmian).

Panama Railroad Co., 397.
Parker, Rev. Samuel, 403.
Pre-emption Act of 1841, 361.
Pre-emption rights, (See Land Grants).
Public defense, Railway and, 262.

Rails, (See Track.)
Railway,
  First, 184.
  First Charter, 189.
  First Government Survey, 277.
  Reasons for first, important, 220.
  Periods in history of, 175, 265.
  Influence of, 204, 224 f., 237, note, 247, 250 and note, 301, 311, 321.
  Considered undemocratic, 247.
  Different from other transportation agencies, 241 f, 248.
  Versus Canals, Chap. IV.
Rates, 208 f, 245.
  Based on cost, 214.
  Charter limitations, 209–212; significance of, 213, 244.
Regulation, 258 ff.
Regulation, proposed,
  Discrimination, 246.
  Post roads clause, 246, 260 f.
Reizenstein, cited, 213, 291.
Right of way, (See Land Grants).
Roads,
  Cumberland (National) Road, 232 f.
  Of local significance, 235.
  Versus railways, Chap. V.
Rockwell Report, 398.
Rogers, Commodore, 187.
Routes, Surveys of early, 285 f.

Sanborn, J. B., cited, 226, 338, 340, 369.
Shurz, Carl, quoted, 378.
Smalley, cited, 403.
South, The, 220, 255 and note, 278 and note, 283, 303, 309, 377 f.
South Carolina Canal and Railroad Co., 192, 197, 201, 293.
Speed, on early railroads, 201, 259.
Steam,
  Carriages, 230, 231.
  On highways, 229.
  Versus horse power, 184, 186, 188, 193, 200, 205.
Stephenson, George, 181.
Stevens, John, 188, 196, 206.
Stock subscriptions, 289 f.
Strickland, Wm., 190, 196, 207.
Survey bill, 275; repealed, 282.
Surveys made or proposed by Government, 285.

Tariff,
  On railway iron, 298 ff.
  And internal improvements, 176, 328.
Taussig, 298.
Tavern Keepers, 237.
Tehuantepec (See under Isthmian).
Territories, Regulation in, 263.
Thierry, Charles de, 388, 391.
Toll, as a special charge, 209, and note.
Track, Early, 181, 193, 195–199.
Traffic, Early ideas on railway, 183, 200.
Tunnell, G. G., cited, 318.
Tyler, John, 261.

Union, Railways and the, 249.

Vanderbilt, Cornelius, 398.

Walker, Senator, his proposals concerning Pacific railways, 429.
Washington, George, 182.
West, The, 243 (note), 345, 375, 383, 384.
Whitney, Asa, 257, 404, 407, 409 ff.
Wilkes, George, his memorial for a national Pacific railway, 425 f.
Wood, Importance of in early railway construction, 193, 198.

INDEX OF NAMES OF CONGRESSMEN

Allen, 396.
Archer (Pa.), 382.

Bagby (Ala.), 373, 374, 378.
Barnard (Pa.), 302.
Benton (Mo.), 201, 256, 262, 395, 396, 402, 415, 427.
Bialack, 310.
Borland (Ark.), 416.
Bouldin, 243.
Bowlin (Mo.), 256, 378, 418, 428.
Breese (Ill.), 348, note, 372, 395, 415.
Bright, 416.
Buchanan (Pa.), 254, 282, 303, 308, 313, 324.

Cambreling (Md.), 231.
Cameron (Pa.), 396.
Calhoun, 280, 309, 314, 329.
Carson (N. C.), 205.
Casey, 369.
Cass (Mich.), 383.
Chambers (Md.), 319.
Clay (Ala.), 351.
Clay, Henry, 233, 308, 324.
Cobb (Ga.), 320.
Collamer (Vt.), 363.
Cuthbert, 309.

Dallas, 305.
Dawson (Ga.), 381.
Davis (Miss.), 382.
Dickerson, 271.
Dix (N. Y.), 425.
Douglas (Ill.), 396, 420.

Foote, 410.

Grundy (Tenn.), 253, 273, 319.

Hale (N. H.), 395.
Hayne (S. C.), 279, 280, 303.
Hemphill, 271.
Houston (Tex.), 256, 426.

Jackson (Mass.), 207, 235.
Johnson (La.), 270, 280 (note).
Johnson (Md.), 293, 396.
Jones (Tenn.), 246.

King, T. Butler, 394, 408.

Lane (Ind.), 235.
Livingstone (La.), 273, 277.

Madison, 328.
Mason (Mass.), 186.
McLane (Del.), 279, 280 (note).
Mercer (Md.), 221, 229, 231, 255, 271.

Niles (Conn.), 264, 416.

Parks, 262.
Porter (Mich.), 325 (note).
Preston (S. C.), 320.

Robinson, 256, 257, 417, 419.
Rockwell, 398.

Semmes (Md.), 211, 214, 258.
Smith (Conn.), 376.
Smith (Ind.), 321.
Smith (Md.), 208, 280, 300, 303.
Smith (S. C.), 302.
Speight (Miss.), 375.
Stewart (Pa.), 270.
Sweetser (O.), 340.

Test, 271.
Tipton, 294.
Trotter (Miss.), 351.

Venable (N. C.), 246.

Walker, 308, 429.
Webster (Mass.), 273, 280 and note.
Webster (O.), 250, 236, 253.
Wescott (Fla.), 373.

Yulee (Fla.), 380 (note), 383.

Author Wisconsin, University of. Univ. P.
Title Bulletin, Econ. and Pol. science Series
Vol. III 1908
10899

University of Toronto
Library

DO NOT
REMOVE
THE
CARD
FROM
THIS
POCKET

Acme Library Card Pocket
Under Pat. "Rel. Index File"
Made by LIBRARY BUREAU